



CITY OF  
TUCSON

COMPREHENSIVE  
PLANNING  
TASK FORCE

November 13, 2002

To: Subscriber to the Tucson *Land Use Code (LUC)*

**SUBJECT: SUPPLEMENT NO. 29 TO THE *LAND USE CODE (LUC)***

Dear Subscriber:

Enclosed is Supplement No. 29 to your copy of the City of Tucson *Land Use Code (LUC)*. An explanation of the revisions included in this Supplement is also enclosed.

This Supplement includes Ordinance No. 9750, Protected Development Rights, adopted by the Mayor and Council on August 5, 2002. In addition, some minor formatting errors have been corrected.

Please recycle and replace pages in your *LUC* as follows.

<b>Article II. Zones</b>		
<b>Item</b>	<b>Remove Old Pages</b>	<b>Insert New Pages</b>
Division 8. Overlay Zones	121/122	121/122
	133/134	133/134
	157/158	157/158
<b>Article III. Development Regulations</b>		
<b>Item</b>	<b>Remove Old Pages</b>	<b>Insert New Pages</b>
Division 5. Performance Criteria	276.1/276.2	276.1/276.2
Division 6. Development Incentives	285	285
<b>Article IV. Subdivisions</b>		
<b>Item</b>	<b>Remove Old Pages</b>	<b>Insert New Pages</b>
Division 1. Generally	312/313	312/313
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<b>Article V. Administration</b>		
<b>Item</b>	<b>Remove Old Pages</b>	<b>Insert New Pages</b>
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Division 3. Special Development Applications	348-350.1	348-350.1
Division 4. Procedures	359/360	359/360
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<i>Article VI. Definitions</i>		
<i>Item</i>	<i>Remove Old Pages</i>	<i>Insert New Pages</i>
Division 2. Listing of Words and Terms	447-455.1	447-455.1
<i>Appendices</i>		
<i>Item</i>	<i>Remove Old Pages</i>	<i>Insert New Pages</i>
Appendix 1 - Checklist of Up-to-Date Pages	1-3	1-3

Please insert and maintain this instruction sheet in the front of your copy of the *LUC*.

Should you have any questions while replacing these pages, please call me at 791-4505.

Sincerely,

Jennifer Noriega  
Planning Technician

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Enclosures:      Summary of Amendment  
                         Supplement No. 29

**TUCSON *LAND USE CODE (LUC)* - SUPPLEMENT NO. 29**

**SUMMARY OF AMENDMENT**

**ORDINANCE NO. 9750**

**ORDINANCE NO. 9750 (*Adopted on August 5, 2002*)**

The amendment establishes the regulatory authority for the Mayor and Council to grant protected development rights as part of a development agreement, as authorized by state law.

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3. The Hillside Development Zone (HDZ) regulations do not apply to lots or parcels annexed from Pima County which were exempt from the Pima County HDZ at the time of annexation, unless the lot or parcel is divided into two (2) or more parcels or used for other than one (1) single-family dwelling.
4. The density restrictions of Sec. 2.8.1.6 do not apply to any lot or parcel which was zoned R-1, R-2, R-3, or R-4 and located within the city limits prior to December 10, 1979, unless the lot or parcel is divided into two (2) or more parcels or used for other than one (1) single-family dwelling.
5. The Hillside Development Zone (HDZ) regulations do not apply in the following situations if the structure or vehicular circulation area existed prior to September 15, 1980.
  - a. Any addition to a structure which does not exceed one thousand (1,000) square feet or twenty-five (25) percent of the enclosed area of the structure, whichever is greater. Additions are to be cumulative after September 15, 1980.
  - b. Any alteration of, or addition to, a vehicular circulation area which does not exceed one thousand (1,000) square feet or twenty-five (25) percent of the existing vehicular circulation area, whichever is greater. Additions are to be cumulative after September 15, 1980.
  - c. Any paving of an existing vehicular circulation area.

2.8.1.4 Permitted Uses. Any use permitted by the underlying zone is allowed.

2.8.1.5 Review Required. All subdivisions and all development on any lot or parcel identified on the Hillside Development Zone (HDZ) Maps as an HDZ lot or parcel must be reviewed and approved as specified in this Section. No grubbing, grading, excavation, or construction shall occur, nor shall the City issue an approval or a permit for grubbing, grading, excavation, or construction, on any lot or parcel within the HDZ unless and until the City approves a plat or plan for the lot or parcel. In addition to the following, application requirements shall include information as provided in Development Standard 2-12.0.

- A. *Subdivision.* Proposed subdivisions are required to comply with this Section and Development Standard 2-12.0. The subdivision plat will be reviewed in accordance with Chapter 23A, of the *Tucson Code*, Sec. 23A-45. Hillside Development Zone (HDZ) documentation can be reviewed concurrently with the plat. The subdivision procedures are also provided in Development Standard 2-03.0.
- B. *Other Development.* Proposed development projects, other than subdivisions, require submittal of a plan complying with the requirements of this Section and Development Standard 2-12.0 for review in accordance with procedures established in Chapter 23A, of the *Tucson Code*, Sec. 23A-41.

(Ord. No. 9392, §1, 5/22/00)

2.8.1.6 Development Criteria. The following development criteria apply to lots and parcels that are affected by this zone. Any lot or parcel created must meet the slope/size requirements of Table 2.8.1-I except as provided below. All development is subject to a three hundred (300) foot setback from each protected peak or ridge as delineated on the City Zoning Maps.

CITY OF TUCSON LAND USE CODE  
ARTICLE II. ZONES  
DIVISION 8. OVERLAY ZONES  
HILLSIDE DEVELOPMENT ZONE (HDZ)

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A. *Single-Family Residential Development.*

1. *Existing Lot or Parcel Where No Land Division Occurs.* The average natural cross-slope (ACS) is calculated for the entire lot or parcel. If the ACS is fifteen (15) percent or greater, Columns A, B, and D of Table 2.8.1-I apply. If the minimum land area required for the lot or parcel, based on the ACS, is greater than the area of the lot or parcel, natural areas may be designated on the lot or parcel, in accordance with Sec. 2.8.1.7, to reduce the ACS percentage. Such designated natural areas will be excluded from the ACS calculation but will be included in the land area for the lot or parcel. *(See Illustration 2.8.1.6.)*
2. *Existing Lot or Parcel Where Land Division Occurs.* The average natural cross-slope is calculated for the entire lot or parcel. If the ACS is fifteen (15) percent or greater, Columns A and C of Table 2.8.1-I apply. Natural areas may be designated on the lot or parcel in accordance with Sec. 2.8.1.7 to reduce the ACS percentage. Such natural areas will be excluded from the ACS calculation but will be included in the land area for the lot or parcel. *(See Illustration 2.8.1.6.)*
  - a. If the land division requires a subdivision plat, all areas of fifteen (15) percent or greater slope within the lot or parcel, except within natural areas, are delineated. These sloped areas then determine the design of the development according to the following criteria.
    1. For any proposed lot within the parcel where the areas of fifteen (15) percent or greater slope are located outside the buildable area, the minimum lot size requirements of the underlying zone apply. The buildable area may be redefined to exclude areas of steeper slope in order to comply with this requirement. Grading may occur only within the buildable area and access to the buildable area. Grading for access may cross a delineated sloped area.
    2. For any proposed lot within the parcel where the buildable area contains areas of fifteen (15) percent or greater slope, the minimum size required for that lot is one (1) acre unless a greater size is required by the underlying zone. The amount of grading permitted is indicated in Column D of Table 2.8.1-I, based on the area of the lot, Column B.
    3. Yard setbacks for the applicable zone are applied to the entire parcel or to each lot within the parcel if the parcel is divided into lots.
  - b. If a subdivision plat is not submitted, the land area of each lot created must comply with Columns A, B, and D of Table 2.8.1-I.

Where possible, existing poles will be used to provide the required transition to underground service to new developments adjacent to scenic corridors. However, a new pole set in line with the existing overhead system, when necessary to serve approved new developments, shall not be deemed to be a new utility. Upgrades and reinforcements of existing overhead facilities are allowed to the extent that the total number of electrical circuits or communication cables is not increased. Relocation of overhead utility facilities required by public improvement districts along scenic corridors will conform with existing franchise requirements.

- B. Where an existing development is expanded by fifty (50) percent or more in floor area or land area, new and existing utilities to all portions of the development will be located underground. Incremental expansion will be cumulative. Additions to single-family dwellings are exempt.

2.8.2.10 Additional Design Considerations.

- A. Building or structure surfaces, which are visible from the Scenic Route, will have colors which are predominant within the surrounding landscape, such as desert and earth tones. Single-family dwellings, except in subdivisions recorded after May 28, 1985, are exempt.
- B. Fencing and freestanding walls facing the Scenic Route will meet the material restrictions in Sec. 3.7.3, Screening Requirements.
- C. Regulations for signs are stipulated in Section 3-40, Scenic Corridor Zone (SCZ) District, of Chapter 3, Advertising and Outdoor Signs, of the *Tucson Code*, and are further supplemented by the following.
  - 1. On any conflict in requirements between this Section and Section 3-40, the more strict of the two prevails.
  - 2. Signs are to use those colors which are predominant within the surrounding landscape, such as desert and earth tones.
  - 3. No commercial advertising sign, except a sign pertaining to a use conducted on the premises or a sign advertising the sale or lease of the property upon which the sign is located, and no billboard shall be erected within four hundred (400) feet of the right-of-way line on any street or route designated as "scenic" on the major thoroughfare system approved and adopted by the Mayor and Council.

2.8.2.11 Site Design Review. Applications for projects within the Scenic Corridor Zone (SCZ) shall be reviewed in accordance with Chapter 23A, of the *Tucson Code*, Sec. 23A-42. (Ord. No. 9392, §1, 5/22/00)

- A. At the request of the Development Services Department (DSD) Director or applicant, the Development Review Board (DRB) shall review building elevations, landscaping, parking areas, and other contributing design features to substantiate compliance with the criteria required in making a decision. (Ord. No. 9392, §1, 5/22/00)
- B. The decision to approve or deny the project will be based on the purpose, intent, and specific regulations of this Section, on the objectives specified in the *Major Streets and Routes (MS&R) Plan* for scenic corridor development, and on the following criteria which provide for the preservation of: (Ord. No. 9392, §1, 5/22/00)
  - 1. Views of prominent mountain ridge lines that form the limits of scenic viewsheds and provide a natural backdrop for sensitively designed development.

2. Viewsheds which provide the observer with a visual perspective of the area in terms of foreground, middle ground, and background.
3. The scenic quality of the desert and mountain environment through the retention of native vegetation and natural topography.
4. View windows through an aesthetic screening or siting of developmental elements that are incompatible with the natural qualities of the surrounding area.

2.8.2.12 Submittals. Submittals shall be in compliance with requirements established in Chapter 23A, of the *Tucson Code*, Sec. 23A-42. (Ord. No. 9392, §1, 5/22/00)

2.8.2.13 Grading. No grading can occur until thirty (30) days prior to construction. Construction plans must be in the review process for permits, or construction permits must have already been issued. Grading permits are to cover only those areas for which building permits are granted.

2.8.2.14 Variances. The Development Review Board (DRB) shall review all requests for variances from Scenic Corridor Zone (SCZ) regulations as provided in Sec. 5.1.8.3.B and shall forward its recommendations in accordance with Sec. 5.1.8.2.F. (Ord. No. 9179, §1, 12/14/98; Ord. No. 9392, §1, 5/22/00)

(Ord. No. 9392, §1, 5/22/00)



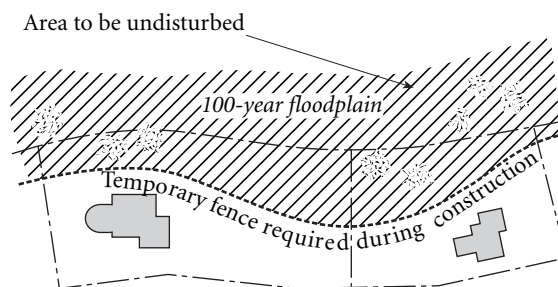
- D. *Rezoning.* Rezoning applications for parcels adjacent to the washes listed above, but not shown on the Environmental Resource Zone Overlay Maps (ERZ Maps), are subject to these regulations.
- E. *Approved Subdivisions.* Where a recorded plat shown on the Environmental Resource Zone Overlay Maps (ERZ Maps) is resubdivided, it must comply with these regulations.
- F. *Annexation.* As annexation occurs, additional resource corridors or extensions of resource corridors may be added to the Environmental Resource Zone Overlay Maps (ERZ Maps).

**2.8.6.3**     Exceptions. These regulations do not apply to the following.

- A. Any single-family residence or other development existing as of July 3, 1990, or any expansion of up to twenty-five (25) percent of either an existing residence or other development.
- B. Any lot or parcel to be developed with one (1) single-family residence where all development and the residence and any accessory structures are located outside of the critical riparian habitat area.
- C. Any subdivision which was recorded prior to August 3, 1990, as long as:
  - 1. Substantial construction occurs within five (5) years after August 3, 1990, and
  - 2. Construction occurs in accordance with the approved plat.
- D. Where these regulations affect a parcel which is also subject to the Hillside Development Zone (HDZ) regulations, these regulations do not apply as long as there is no encroachment into the one hundred (100) year floodplain.

**2.8.6.4**     Review and Approval Required. Two (2) options are available for development under these regulations.

- A. *No Encroachment in Floodplain.* Where the owner of a lot or parcel affected by these regulations chooses to leave the one hundred (100) year floodplain undisturbed, the Environmental Resource Zone (ERZ) does not apply except that temporary fencing will be placed between the project site and the floodplain area as provided in Sec. 2.8.6.6.B; where permitted by the floodplain ordinance, development in this floodplain area is allowed as provided in Sec. 2.8.6.6. (*See Illustration 2.8.6.4.A.*) (Ord. No. 9138, §1, 10/5/98)



**2.8.6.4 .A No Encroachment in Floodplain (ERZ)**

- B. *Study of Resource Corridor.* Where the owner of a lot or parcel affected by these regulations chooses to do a study of the resource corridor, a development submittal containing the following information is provided in accordance with submittal requirements of the *Tucson Code*, Chapter 23A, Sec. 23A-43. (Ord. No. 9392, §1, 5/22/00)

CITY OF TUCSON LAND USE CODE  
ARTICLE II. ZONES  
DIVISION 8. OVERLAY ZONES  
ENVIRONMENTAL RESOURCE ZONE (ERZ)

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1. Submittal material will include an Environmental Resource Report as established in Development Standard 2-13.0. This Report presents a study of the resource corridor and documents locations of the resource corridor and critical riparian habitat.
2. If preservation of the critical riparian habitat cannot be accomplished as provided in these regulations, the submittal will include a mitigation plan as required in Sec. 2.8.6.5.D.
3. Permits for grubbing, grading, construction, or any other improvements will not be issued until all applicable requirements of Sec. 2.8.6.5 and Sec. 2.8.6.6 are met.

2.8.6.5     Development Regulations.

- A. *Preservation of Critical Riparian Habitat.* Preservation of one hundred (100) percent of critical riparian habitat areas within the resource corridors for parcels shown on the Environmental Resource Zone Overlay Maps (ERZ Maps) is required, except as provided in Sec. 2.8.6.4 and Sec. 2.8.6.6. The critical riparian habitat area may be included as part of any required open space on the site.
- B. *Residential Development.* Residential development of four (4) or more dwelling units is allowed only as provided in Sec. 3.6.1, Residential Cluster Project (RCP), except as provided in Sec. 2.8.6.3.B. Use of the RCP provides for the maximum amount of critical riparian habitat preservation while preserving density options.
- C. *Nonresidential Development.* Nonresidential development is allowed based on underlying zoning.
- D. *Mitigation Plan.* Where preservation of the critical riparian habitat area cannot be accomplished as provided in these regulations, the owner is required to submit a mitigation plan, which will be reviewed in accordance with Chapter 23A, of the *Tucson Code*, Sec. 23A-43, containing the following. (Ord. No. 9392, §1, 5/22/00)
  1. A statement of findings as to why one hundred (100) percent preservation of the critical riparian habitat area cannot be accomplished.
  2. The plan will document the specific impact of the development on existing critical riparian habitat areas within the resource corridor.
  3. The mitigation plan will present the techniques considered to lessen the impacts of the development on the critical riparian habitat areas. The techniques employed by the development project should protect remaining critical riparian habitat and restore critical riparian habitat areas disturbed during construction. This may be done through clustering development away from substantial amounts of critical riparian habitat, enhancement of degraded critical riparian habitat areas through revegetation or restoration, or other means appropriate to the type of project. (*See Illustration 2.8.6.5.D.3.*)

D. Parking requirements shall be as required for Group Dwellings, Sec. 3.3.4.

3.5.7.10 Artist Studio/Residence in I-1.

- A. The use is limited to structures in existence on February 25, 1991, within the designated artist studio/residence area as defined in Sec. 6.2.1.
- B. The use will not displace existing industrial uses.
- C. The appearance and structural integrity of the structure are preserved or enhanced.
- D. Residential use of the property is incidental and secondary to the artist studio use, with no greater than fifty (50) percent of the floor area devoted to the secondary residential use.
- E. The secondary residential use is occupied by an artist who is also the occupant of the primary artist studio use.
- F. Adequate measures are provided to assure the health, safety, and welfare of the occupants in relation to any industrial process, use, or storage carried out in the artist studio/residence or on adjacent properties.
- G. The use will not impair or interfere with the continued industrial use of adjacent properties or with the purposes of the industrial zone.

3.5.7.11 Mobile Home Dwelling Secondary Uses. In mobile home parks in MH-2 and mobile home parks existing as of July 1, 1995, in MH-1(MH), a maximum of twenty-five (25) percent of the existing spaces designed for mobile homes may be utilized for recreational vehicles provided each time the space is rented it is for at least one (1) month in duration.

**3.5.8 RESTRICTED ADULT ACTIVITIES USE GROUP.**

3.5.8.1 Restricted Adult Activities.

- A. The adult establishment shall not be less than one thousand (1,000) feet from any church, school, public playground, park, or neighborhood recreation property line.
- B. The adult establishment shall not be less than one thousand (1,000) feet from any residential use property line or residential zone boundary line.
- C. The adult establishment shall not be less than one thousand (1,000) feet from the premises of any other adult entertainment enterprise.
- D. The adult establishment requires approval through procedures established in Chapter 23A, of the *Tucson Code*, Sec. 23A-49. (Ord. No. 9392, §1, 5/22/00)
- E. The land use activity must occur within an enclosed building.

**3.5.9 RETAIL TRADE USE GROUP.**

3.5.9.1 Food and Beverage Sales.

- A. One (1) building is allowed.
- B. Maximum area of stand.

1. Three thousand (3,000) square feet.
  2. Seven hundred fifty (750) square feet.
  3. Two hundred (200) square feet.
- C. Only the sale of farm products grown or produced on the premises is permitted.
- D. The building shall not be located closer than twenty (20) feet to any property line.
- E. The minimum setback from any street intersection is one hundred fifty (150) feet.
- F. The parking area is set back a minimum of forty-five (45) feet from the property line.
- G. The minimum parking area is eight hundred (800) square feet.
- H. The maximum width of the entry to the parking area is thirty (30) feet.
- I. The vehicular use area is to be surfaced as is required in Sec. 3.3.7.3 if the stand is open more than six (6) months per calendar year. If open a shorter time, these areas must be maintained to minimize dust.
- J. The maximum floor area is four thousand (4,000) square feet.
- K. A retail establishment (store) is limited to a maximum of one hundred thousand (100,000) square feet of floor area. The one hundred thousand (100,000) square feet of floor area includes gross floor area, outdoor storage areas, and any outside area which provides associated services to the public, such as, but not limited to, outdoor merchandise display, snack bars, etc. The floor area does not include motor vehicle parking or loading areas.

For the purposes of determining the applicability of the one hundred thousand (100,000) square foot floor area maximum, the aggregate square footage of all adjacent stores, which share checkstands, management, a controlling ownership interest, and storage areas, shall be considered one establishment, e.g., a plant nursery associated with a general merchandise store, such as a home improvement store.

Establishments greater than one hundred thousand (100,000) square feet of floor area (Large Retail Establishments) are considered through a Special Exception Land Use process as provided in the applicable zone.

(Ord. No. 9293, §1, 9/27/99)

#### 3.5.9.2 General Merchandise Sales.

- A. Outdoor display or storage of fertilizer, manure, or other odorous material shall be located at least thirty (30) feet from any interior lot line.
- B. The maximum floor area is two thousand (2,000) square feet.
- C. Fuel dispensing locations are limited to a maximum of twelve (12).
- D. A retail establishment (store) is limited to a maximum of one hundred thousand (100,000) square feet of floor area. The one hundred thousand (100,000) square feet of floor area includes gross floor area, outdoor storage areas, and any outside area which provides associated services to the public, such as, but not limited to, outdoor merchandise display, snack bars, etc. The floor area does not include motor vehicle parking or loading areas.

2. If access to future phases is designed to be through the phase being platted, right-of-way easements or other acceptable legal instruments shall be provided on/with the plats and homeowners' association documents.
- B. If the Residential Cluster Project (RCP) contains common areas, the entire RCP shall be subject to an overall set of comprehensive conditions, covenants, and restrictions which establish the character of the development and create an overall homeowners' association. This association must meet all criteria listed in Sec. 3.6.1.5. If the documentation for the overall homeowners' association does not indicate responsibility for each phase within the RCP, then the excluded phase shall have its own homeowners' association which will be responsible for owning and maintaining any common area, open space, natural area, or recreation area within the phase.
- C. The developer must submit a document to show how the project amenities and site improvements will be developed in proportion to the number of residential units developed. The site improvements must be designed to function independently for each phase and as each new phase is added.

Such project amenities and site improvements shall be located adjacent to or within developed or developing phases and on property that is abutting or physically connected to the residential development in order to provide access between the amenity and the development it serves.

- D. At no time during the construction of the Residential Cluster Project (RCP) shall the number of constructed residential units per acre of developed land exceed the overall density for the land area in each phase and as approved by the recorded plat.

3.6.1.7 Plat Required. A Residential Cluster Project (RCP) shall be platted in conformance with Article IV of this Chapter and Sec. 23A-44 of Chapter 23A of the *Tucson Code*, in addition to Development Standard 2-10.0. (Ord. No. 9392, §1, 5/22/00)

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- 4.1.4.1 Improvements and Financial Assurances. A subdivider shall construct all required subdivision improvements at no expense to the City. Required improvements include items such as streets, sidewalks, storm drainage, flood control, sewer, electric and water utilities, communication cables, natural gas service, the placement of survey monuments, and other public improvements and infrastructure determined necessary as a result of the development of the subdivision. The subdivider must complete the required improvements prior to the recordation of the final plat, or the subdivider may post financial assurances as detailed in Development Standard 1-04.0 to guarantee the completion of the required improvements. Assurances may be in the form of performance bonds, third party trusts, cash escrow funds, or other security acceptable to the City.
- 4.1.4.2 Survey Monuments Required. The subdivider shall place survey monuments of appropriate type and design delineating the external boundary of the parcel being subdivided, public streets, and all public street intersections within or adjacent to the subdivision, installed in accordance with established practices of the City.
- A. External boundary survey monuments for the parcel being subdivided must be installed prior to recordation of the final plat.
- B. All other monuments are to be installed prior to the recordation of the final plat, unless the subdivider has posted financial assurances with the City to assure the installation of the monuments after recordation.
- 4.1.4.3 Permits for Model Homes. Upon approval of the tentative plat, up to five (5) single-family model homes may be authorized for construction prior to recordation of the final plat, provided: (Ord. No. 9392, §1, 5/22/00)
- A. Sale or occupancy of the individual unit as a residence does not occur until after recordation of the final plat and the City's release of financial assurances for improvements, and
- B. The location of each unit is based on the lot configuration approved for the tentative plat at one (1) unit per proposed lot.
- 4.1.4.4 Land Clearing and Grading. Land clearing or grading may begin after grading plans are approved, provided the plans are prepared in compliance with an approved tentative plat and such tentative plat is in conformance with the underlying zoning.
- 4.1.4.5 Plat Abandonment. A recorded plat that is proposed for abandonment or vacation of lot lines must be replatted following the procedures set forth in this Article.
- 4.1.5 PREAPPLICATION CONFERENCE.** Prior to filing a subdivision application, the subdivider is encouraged to meet in a preapplication conference with City staff responsible for subdivision review. The preapplication conference requires no fees and is available as an informal review opportunity for the applicant. Comments provided as part of the preapplication conference do not constitute approval by the City of any construction drawings, land transactions, or private development matters. The conference is designed to accomplish the following.
- Assist the subdivider in analyzing the proposed development and plan for sound integration of the subdivision within the community; and
  - Provide guidance to the applicant regarding City regulations.
- 4.1.6 PLATTING PROCEDURES.**
- 4.1.6.1 Tentative Plats. A tentative plat must be prepared, processed, and approved in accordance with the *Tucson Code*, Chapter 23A, Sec. 23A-45 and applicable Development Standards. (Ord. No. 9392, §1, 5/22/00)

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- A. *Tentative Plat Approval.* The zoning of the property must permit the proposed use, and any change in zoning must have been adopted prior to the approval of the tentative plat. (Ord. No. 9392, §1, 5/22/00)
  - B. *Grading Plan.* Grading plans may be submitted for review prior to approval of the tentative plat in accordance with criteria listed in Development Standard 2-03.0 but cannot be approved until after the tentative plat has been approved.
  - C. *Significance of Tentative Plat Approval.* Approval of the tentative plat constitutes authorization for the subdivider to proceed with the preparation of the final plat. (Ord. No. 9392, §1, 5/22/00)
    - 1. Once a tentative plat is approved, the basic conditions under which approval of the tentative plat is granted will not be changed without concurrence of both the reviewing departments and agencies and subdivider prior to the expiration date of the tentative plat. (Ord. No. 9392, §1, 5/22/00)
    - 2. Approval of a tentative plat does not assure final acceptance of streets for dedication.

4.1.6.2 Final Plats. Final plats shall be prepared, processed, approved, and recorded in accordance with requirements of this Division; the *Tucson Code*, Chapter 23A, Sec. 23A-45; and applicable Development Standards.

(Ord. No. 8808, §1, 1/27/97; Ord. No. 9392, §1, 5/22/00)

**4.1.7 EXPIRATION DATES.** Expiration dates for all platting applications are as follows.

4.1.7.1 Maximum Review Period. The subdivider has one (1) year from the date of application to obtain approval of a tentative plat which complies with requirements in effect at the time of application. If at the end of the one (1) year period the tentative plat does not comply with those requirements, the tentative plat must be revised and resubmitted in compliance with regulations in effect at the time of resubmittal. This resubmittal initiates a new one (1) year review period.

4.1.7.2 Tentative Plat Approval Period. Approval of a tentative plat is valid for a period of one (1) year after the date of approval. (Ord. No. 9392, §1, 5/22/00)

- A. The expiration date for the approval of a tentative plat being platted and recorded in phases is subject to the same one (1) year period. Each phase shall be evaluated as per Sec. 4.1.7.4.
- B. Changes in the *Tucson Code* which relate to requirements of platting that occur between the time the tentative plat is accepted for review and the expiration of the time period allotted to gain approval shall not apply to the application under review unless specifically stated in the adopting ordinance.



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**DIVISION 2. MINOR SUBDIVISIONS**

**SECTIONS:**

<b>4.2.1</b>	<b>PURPOSE</b>
<b>4.2.2</b>	<b>APPLICABILITY</b>
<b>4.2.3</b>	<b>GENERAL PROVISIONS</b>
<b>4.2.4</b>	<b>REVIEW PROCEDURES</b>
<b>4.2.5</b>	<b>EXPIRATION DATES</b>

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- 4.2.1 PURPOSE.** This Division establishes procedures through which the purpose and intent of the subdivision regulations can be accomplished while providing a more economical process for small subdivisions by requiring less documentation and by providing a shorter process than required for large subdivisions.
- 4.2.2 APPLICABILITY.** This Division applies to subdivisions meeting one (1) of the following three (3) groups of criteria.
- 4.2.2.1 Group A Criteria.** Group A criteria consist of the following.
- A. Gross site area: Two (2) acres or less.
  - B. Number of lots: Six (6) or less.
  - C. New streets are not proposed.
  - D. All utility services are available at the subdivision site boundary.
  - E. All proposed lots have street frontage or perpetual access easements of a minimum width and maximum length to comply with requirements established by this Chapter or applicable Development Standard.
  - F. All streets bounding the proposed subdivision are fully improved, except for sidewalks which may be improved as part of the project.
  - G. The property has no special topographic conditions, such as slopes greater than ten (10) percent.
  - H. The property is not within a one hundred (100) year floodplain.
  - I. The site does not have special development requirements, unless these special requirements have been reviewed and a decision rendered concerning the requirements. These special development requirements include, but are not limited to, the Hillside Development Zone (HDZ); the Environmental Resource Zone (ERZ); the Scenic Corridor Zone (SCZ); and the Watercourse Amenities, Safety, and Habitat (WASH) ordinance.
  - J. The project is not proposed as a Residential Cluster Project (RCP).
- 4.2.2.2 Group B Criteria.** Group B criteria consist of the following.
- A. Gross area of property: Two and one-half (2.5) acres or less.
  - B. Number of lots: Twelve (12) or less.

- C. The proposed subdivision creates no more than one (1) new street, provided the street is designed with provisions for on-street parking on both sides and there are no special design considerations, unless such street is a collector or arterial. In those situations, the street shall be designed in accordance with the City Engineer's requirements.

D through J. The same as criteria D through J in Group A, Sec. 4.2.2.1.

- K. Review at a preapplication conference is required to determine whether there are sufficient design or technical issues to warrant review of a tentative plat.

4.2.2.3 Group C Criteria. Group C criteria consist of the following.

A through J. The same as criteria A through J in Group A, Sec. 4.2.2.1. Deviation from criteria A through J is acceptable under condition 3. below. Deviation from criteria A through I is acceptable under conditions 1. and 2. below.

1. The proposed subdivision is a resubdivision of an existing plat and involves the reconfiguration of lot lines only and does not affect the street layout or engineering solutions of the recorded plat; or
2. The proposed subdivision is a resubdivision of an existing plat and involves the consolidation of lots into a number of lots which is less than on the recorded plat and may include the abandonment of existing streets provided no new streets are proposed; or
3. A replatting is proposed to rerecord an existing plat to correct an error, note, signature, or similar minor issue not affecting the subdivision layout.

- K. The same as criteria K in Group B, Sec. 4.2.2.2.

**4.2.3 GENERAL PROVISIONS.**

4.2.3.1 Minor subdivisions are subject to all the requirements of Sec. 4.1.4, except the following.

- A. Permits for model homes shall not be issued unless and until the plat for the minor subdivision is recorded.
- B. Land clearing and grading are not permitted unless and until the plat for the minor subdivision is recorded.

4.2.3.2 Minor subdivisions shall conform with the design standards for subdivisions provided in Sec. 4.1.8.

**4.2.4 REVIEW PROCEDURES.** A minor subdivision plat application shall be reviewed in conformance with the review, approval, and recordation procedures for final plats as provided in Chapter 23A, of the *Tucson Code*, Sec. 23A-46 and Development Standard 2-03.0. Any reviews that are normally conducted during the tentative plat process, such as those involving drainage statements or reports, will be conducted as part of the final plat process. (Ord. No. 9392, §1, 5/22/00)

**4.2.5 EXPIRATION DATES.**

4.2.5.1 Maximum Review Period. The subdivider has one (1) year from the date of application to obtain approval and recordation of the minor subdivision plat which complies with requirements in effect at the time of application. If at the end of the one (1) year period the plat does not comply with those requirements, the plat must be revised and resubmitted in compliance with regulations in effect at the time of resubmittal. This resubmittal initiates a new one (1) year review period.

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**DIVISION 3. LAND SPLITS**

**SECTIONS:**

<b>4.3.1</b>	<b>PURPOSE</b>
<b>4.3.2</b>	<b>APPLICABILITY</b>
<b>4.3.3</b>	<b>REVIEW PROCEDURES</b>
<b>4.3.4</b>	<b>COMPLIANCE</b>

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- 4.3.1 PURPOSE.** The purpose of this Division is to establish a review process for land divisions, other than subdivisions, by which owners and prospective purchasers can be advised whether a proposed division of land complies with the City regulations relating to land splits. This review is intended to:
- Protect and promote the public health, safety, convenience, and welfare.
  - Assure that newly created lots are of sufficient size to meet the requirements of the applicable zoning classification.
  - Assure that all lots resulting from a land split will have adequate access as specified by Sec. 3.2.14.5.
- 4.3.2 APPLICABILITY.** Any proposed land split, as defined by this Chapter, shall be submitted to the Development Services Department (DSD) for review as provided in Sec. 4.3.3. (Ord. No. 9392, §1, 5/22/00)
- 4.3.3 REVIEW PROCEDURES.**
- 4.3.3.1 Application Submittal.** Prior to recording any land split, a property owner shall submit an application containing the following information. (Ord. No. 9392, §1, 5/22/00)
- A. A completed application form.
  - B. A drawing or sketch showing the proposed land split. The drawing or sketch should be fully dimensioned and prepared at a scale which maintains legibility. The drawing or sketch shall show the following information.
    1. The boundaries of the original parcel or lot prior to the land split.
    2. The proposed lots.
    3. The rights-of-way adjacent to or within the property, including streets and easements.
    4. The locations and dimensions of any existing structures.
    5. The setbacks of existing buildings from existing and proposed property lines.
    6. The land area of each proposed lot in square feet or acreage.
    7. Access to all proposed lots in compliance with Sec. 3.2.14.5.
    8. Whether there is any shared use of facilities between properties.

C. Documentation of the land division history of the parcel. Documentation may consist of Assessor's maps and records, deeds, title history search, or any other information that would credibly show the number of land divisions that have occurred from the original parcel over the last twenty (20) years or from the date of annexation if the annexation occurred within the last twenty (20) years.

D. If applicable, a copy of any easement agreement or other legal document which permits shared facilities.

For specific information on the preparation of the drawing or sketch and other submittal requirements, refer to Development Standard 2-03.0 for land splits.

4.3.3.2 Review. The land split application shall be reviewed in accordance with procedures established in Chapter 23A, of the *Tucson Code*, Sec. 23A-47. Determinations are made on the following. (Ord. No. 9392, §1, 5/22/00)

A. Whether the proposed land division constitutes a subdivision as defined in Sec. 4.1.2 requiring compliance with platting requirements of Division 1 of this Article.

B. If the proposed land split does not constitute a subdivision, whether:

1. The lots resulting from the proposed land split conform to the minimum lot size requirements for the zoning classification of the property.
2. Access to the proposed lots is in compliance with Sec. 3.2.14.5.
3. The location of any existing building on any lot resulting from the proposed land split complies with building setbacks for the applicable zone.

4.3.3.3 Decision and Findings. The applicant shall be notified in writing of the review decision and findings within ten (10) working days after the land split application is filed. (Ord. No. 9392, §1, 5/22/00)

A. If it is determined that the proposed land split constitutes a subdivision, compliance with Division 1 or 2 of this Article, as applicable, shall be required for the proposed land division. (Ord. No. 9392, §1, 5/22/00)

B. If it is determined that the proposed land split complies with minimum requirements of this Division, a letter of approval shall be issued to the applicant together with an approved copy of the land split drawing. (Ord. No. 9392, §1, 5/22/00)

C. If it is determined that the proposed land split does not comply with minimum requirements of this Division, a letter of denial shall be issued to the applicant. (Ord. No. 9392, §1, 5/22/00)

D. If a decision is not issued within the ten (10) day time period for issuance of a decision required by this Section, the land split shall be deemed not to constitute a subdivision requiring approval as a subdivision plat. (Ord. No. 9392, §1, 5/22/00)

E. Compliance with City ordinances and regulations not reviewed as part of the land split review process will be determined at the time of application for building permits when more detailed information is provided on the proposed development of each lot.

4.3.4 **COMPLIANCE.** No building permit or zoning compliance certificate shall be issued for development on any parcel that does not comply with the land split regulations of this Article.

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ARTICLE V. ADMINISTRATION

DIVISION 1. POWERS AND DUTIES

SECTIONS:

- 5.1.1 PURPOSE
  - 5.1.2 MAYOR AND COUNCIL
  - 5.1.3 CITY MANAGER
  - 5.1.4 PLANNING DEPARTMENT
  - 5.1.5 PLANNING COMMISSION
  - 5.1.6 ZONING EXAMINER
  - 5.1.7 BOARD OF ADJUSTMENT (B/A)
  - 5.1.8 DEVELOPMENT REVIEW BOARD (DRB)
  - 5.1.9 TUCSON-PIMA COUNTY HISTORICAL COMMISSION
  - 5.1.10 HISTORIC DISTRICT ADVISORY BOARDS
  - 5.1.11 DEVELOPMENT SERVICES DEPARTMENT (DSD)
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- 5.1.1 **PURPOSE.** This Division describes the responsibilities, powers, and duties exercised by the legislative and administrative bodies, appointive officers and municipal agencies, and boards and commissions involved in the planning, zoning, and division of land within the city.
- 5.1.2 **MAYOR AND COUNCIL.** The Mayor and Council perform the following functions.
  - 5.1.2.1 General Plan. The Mayor and Council shall adopt a comprehensive, long-range general plan for the development of the city known as the *General Plan* and any of its elements as provided in Sec. 5.2.2 and elements mandated by the Arizona Revised Statutes (ARS), Sec. 9-461.05 and 9-461.06. Adoption of, and amendment to, the *General Plan* shall be in accordance with procedures set forth in Sec. 5.4.2.1, Type I Legislative Procedure. The *General Plan* is equivalent to the state-mandated general plan. (Ord. No. 9374, §1, 4/10/00; Ord. No. 9517, §4, 2/12/01)
  - 5.1.2.2 Specific Plans and Regulations. The Mayor and Council shall adopt specific plans, regulations, programs, and legislation as described in Sec. 5.2.3 and as may be needed for the systematic implementation of the *General Plan* and provided for in the Arizona Revised Statutes (ARS), Sec. 9-461.08. Adoption of, and amendment to, specific plans shall be in accordance with procedures set forth in Sec. 5.4.2.1, Type I Legislative Procedure. (Ord. No. 9374, §1, 4/10/00; Ord. No. 9517, §4, 2/12/01)
  - 5.1.2.3 Redevelopment Plans. The Mayor and Council shall adopt redevelopment plans which are policy plans addressing slum and blighted areas from the standpoint of providing economic incentives to stimulate development/redevelopment. Consideration of adoption of, or amendment to, a redevelopment plan shall be in accordance with Sec. 5.4.2.1, Type I Legislative Procedure. (Ord. No. 9517, §4, 2/12/01)
  - 5.1.2.4 Land Use Code (LUC). The Mayor and Council shall adopt and amend the *Land Use Code (LUC)* in accordance with procedures set forth in Sec. 5.4.2.1, Type I Legislative Procedure. (Ord. No. 9517, §4, 2/12/01)
  - 5.1.2.5 Establishment of Original City Zoning. The Mayor and Council shall establish original city zoning for land annexed in accordance with procedures set forth in Sec. 5.4.2.5, Type V Legislative Procedure. (Ord. No. 9517, §4, 2/12/01)
  - 5.1.2.6 Changes in Zoning District Boundaries (Rezoning). The Mayor and Council shall consider amendments to zoning district boundaries as provided on the City Zoning Maps in accordance with procedures set forth in Sec. 5.3.2. (Ord. No. 9517, §4, 2/12/01)

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- 5.1.2.7 Repealed. (Ord. No. 8765, §1, 10/14/96; Ord. No. 9517, §4, 2/12/01)
- 5.1.2.8 Appeals of Zoning Examiner (Examiner) Decisions, Special Exception Land Uses. The Mayor and Council shall consider appeals from Zoning Examiner (Examiner) decisions on Special Exception Land Use applications in accordance with procedures set forth in Sec. 5.4.4.3, Type III Appeal Procedure. (Ord. No. 9517, §4, 2/12/01)
- 5.1.2.9 Plats. The Mayor and Council shall consider final plats in accordance with procedures set forth in Sec. 4.1.6.2. Authority to approve a tentative plat is delegated to the Development Services Department (DSD) Director. (Ord. No. 9392, §1, 5/22/00; Ord. No. 9517, §4, 2/12/01)
- 5.1.2.10 Special Exception Land Uses. The Mayor and Council shall consider Special Exception Land Use requests requiring legislative consideration in accordance with Sec. 5.3.9. (Ord. No. 9517, §4, 2/12/01)
- 5.1.2.11 Enforcement. The Mayor and Council shall adopt policies for establishing rules and procedures deemed necessary for the enforcement of the *Land Use Code (LUC)*. (Ord. No. 9517, §4, 2/12/01)
- 5.1.2.12 Appointments. The Mayor and Council appoint the members of the following boards and commissions.
- A. Planning Commission in accordance with Sec. 5.1.5.
  - B. Board of Adjustment (B/A) in accordance with Sec. 5.1.7.
  - C. Development Review Board (DRB) in accordance with Sec. 5.1.8.
- (Ord. No. 9517, §4, 2/12/01)
- 5.1.2.13 Appeals of Development Services Department (DSD) Director Decisions, Environmental Resource Zone (ERZ) Mitigation Plans. The Mayor and Council shall consider appeals of Development Services Department (DSD) Director decisions on Environmental Resource Zone (ERZ) mitigation plans as provided in Sec. 2.8.6.8.B in accordance with procedures set forth in Chapter 23A of the *Tucson Code*. (Ord. No. 9179, §1, 12/14/98; Ord. No. 9392, §1, 5/22/00; Ord. No. 9517, §4, 2/12/01)
- 5.1.2.14 Protected Development Right Plan Approvals. The Mayor and Council shall consider for approval protected development right plans submitted in accordance with Arizona Revised Statutes (ARS), Sec. 9-1201 through 9-1205 inclusive and the procedures set forth in Sec. 5.3.10. (Ord. No. 9635, §1, 12/10/01; Ord. No. 9750, §1, 8/5/02)
- 5.1.3 CITY MANAGER.** The City Manager provides general supervision of, and direction to, the Planning Department and the Development Services Department (DSD) in the administration of the *Land Use Code (LUC)*, subject to the control of the Mayor and Council, and is given the authority to perform the following duties. (Ord. No. 9392, §1, 5/22/00)
- 5.1.3.1 Enforcement. The City Manager assures that the *Land Use Code (LUC)* is enforced and that City agencies and employees provide assistance to the Planning Department, the Development Services Department (DSD), and the responsible boards and commissions in the planning, zoning, and division of land. (Ord. No. 9392, §1, 5/22/00)
- 5.1.3.2 Capital Improvement Program. The City Manager, with the assistance of the Planning Director and other City agencies, prepares a coordinated program of proposed public works for the city on an annual basis.
- 5.1.3.3 Reserved. (Ord. No. 9392, §1, 5/22/00)
- 5.1.3.4 Reserved. (Ord. No. 9392, §1, 5/22/00)
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- 5.1.6 ZONING EXAMINER.** The position of the Zoning Examiner is established to conduct public hearings on rezoning requests on behalf of the Mayor and Council and to consider other land use applications as provided in the *Land Use Code (LUC)*.
- 5.1.6.1 Position. The Zoning Examiner serves in accordance with the following provisions.
- A. *Appointment.* The Zoning Examiner is appointed by the City Manager in accordance with Chapter V, Sections 2 and 13, of the *City Charter*.
  - B. *Qualifications.* The Zoning Examiner is appointed on the basis of a demonstrated ability to perform the duties of the office, such as training and experience relevant to the conduct of administrative and adjudicative hearings and knowledge of the principles and practices of land use planning. The Zoning Examiner may not hold a city elective office concurrently with this position.
  - C. *Term.* The Zoning Examiner serves at the pleasure of the City Manager. The City Manager may designate a qualified person as a temporary Zoning Examiner whenever the Zoning Examiner is unable to perform the duties of the office due to illness, potential conflict of interest, or similar reason.
- 5.1.6.2 Administrative Functions. The administrative functions necessary to discharge the duties and responsibilities of the Zoning Examiner are assigned to the Zoning Examiner, the City Clerk, and the Planning Department as provided in the Zoning Examiner's Rules and Procedures. Copies of such rules and procedures shall be available to the public through the Planning Department.
- 5.1.6.3 Powers and Duties. The Zoning Examiner performs the following duties.
- A. *Rezoning.* The Zoning Examiner conducts public hearings on applications to rezone property and makes recommendations to the Mayor and Council in accordance with procedures as set forth in Sec. 5.3.2.
  - B. *Special Exception Land Uses.* The Zoning Examiner conducts public hearings on certain Special Exception Land Uses and, depending upon the applicable procedure, makes decisions or provides recommendations to the Mayor and Council in accordance with procedures as set forth in Sec. 5.3.9.
  - C. *Expansion of Nonconforming Use.* The Zoning Examiner hears and decides requests to exceed the amount of expansion allowed for structures and land area devoted to a nonconforming use in accordance with procedures as set forth in Sec. 5.3.6.
  - D. *Substitution of Nonconforming Uses.* The Zoning Examiner hears and decides requests to substitute a land use for an existing nonconforming use, when the proposed substitution is from a Land Use Class that is different from the one to which the existing nonconforming use belongs. Consideration of the request shall be in accordance with Sec. 5.4.3.5, Type V Administrative Procedure, as provided in Sec. 5.3.6.1.D.
  - E. *Appeals, Planning Director Decisions on Special Exception Land Uses.* The Zoning Examiner considers appeals of Planning Director decisions on certain Special Exception Land Use requests in accordance with Sec. 5.4.4.4, Type IV Appeal Procedure.
  - F. *Other Responsibilities.* The Zoning Examiner shall perform such other functions as may be required by the City Manager or the *Land Use Code (LUC)*.

(Ord. No. 9392, §1, 5/22/00)

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**5.1.7 BOARD OF ADJUSTMENT (B/A).** The Board of Adjustment (B/A) is established to hear and decide requests for variances from *Land Use Code (LUC)* regulations, appeals of Zoning Administrator's interpretations, and other land use issues as provided by the *LUC*. The B/A serves in the capacity of a board of adjustment as provided by the Arizona Revised Statutes (ARS).

5.1.7.1 Composition. The Board of Adjustment (B/A) consists of seven (7) members as provided below.

- A. *Appointment.* Each member of the City Council appoints one (1) Board of Adjustment (B/A) member who must be a resident of the appointing Council Member's ward. The Mayor appoints one (1) B/A member who must be a resident of the city. Should an appointment not be made within thirty (30) days of the date the position becomes vacant, the appointment can be made by a majority vote of the Mayor and Council. All members of the B/A serve without compensation.
- B. *Qualifications.* No member of the Board of Adjustment (B/A) is to hold any city, county, or state elective office or be a permanent employee of the City while a member of the B/A.
- C. *Terms and Removal from Office.* The term of appointment and the removal of a member of the Board of Adjustment (B/A) shall be in accordance with *Tucson Code*, Chapter 10A, Article XIII. (Ord. No. 9374, §1, 4/10/00)
- D. *Vacancies.* Any position on the Board of Adjustment (B/A) that is vacated shall be filled by appointment as described in Sec. 5.1.7.1.A. An appointment to fill an unexpired term shall be for the unexpired portion of the term.

(Ord. No. 9374, §1, 4/10/00)

5.1.7.2 Administrative Functions. The Board of Adjustment's (B/A) administrative functions shall be accomplished as follows.

- A. *Election of Officers.* The Board of Adjustment (B/A) shall elect a Chair and Vice Chair from among its members. The terms of the Chair and Vice Chair are one (1) year which shall commence in February of each year.
- B. *Meetings.* The Board of Adjustment (B/A) shall hold at least one (1) meeting per month but shall hold as many meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public.
- C. *Quorum and Voting.* Four (4) members of the Board of Adjustment (B/A) present at a meeting constitute a quorum. A concurring vote of four (4) members is necessary to decide any matter within its powers and duties as provided in Sec. 5.1.7.3, except that, on a motion to approve, if four (4) votes cannot be achieved, the item is considered denied. On all other matters before the B/A, a simple majority of those members present is sufficient to approve a motion.
- D. *Records.* The Planning Department shall keep public records of the Board of Adjustment's (B/A) hearings, findings, and decisions.
- E. *Rules of Procedure.* The Board of Adjustment (B/A) shall adopt rules of procedure necessary to carry out its functions. Copies of such rules shall be available to the public through the Planning Department.



5.1.7.3 Powers and Duties. The Board of Adjustment (B/A) performs the following duties.

- A. *Appeals of Land Use Code (LUC) Interpretations.* The Board of Adjustment (B/A) hears and decides appeals from interpretations made by the Zoning Administrator in the application or enforcement of the *LUC* as provided in Sec. 1.2.1 or in the determination of a zone boundary location as provided in Sec. 1.3.6 in accordance with procedures set forth in Sec. 5.4.4.5, Type V Appeal Procedure. (Ord. No. 9179, §1, 12/14/98)
- B. *Variances from Land Use Code (LUC) Provisions.* The Board of Adjustment (B/A) hears and decides requests for variances from the provisions of the *LUC*. Consideration of a variance request shall be in accordance with procedures set forth in Sec. 5.4.3.3, Type III Administrative Procedure.
  1. The Board of Adjustment (B/A) may grant a variance only if it finds:
    - a. That, because there are special circumstances applicable to the property, strict enforcement of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district; and
    - b. That such special circumstances were not self-imposed or created by the owner or one in possession of the property; and
    - c. That the variance granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and
    - d. That, because of special circumstances applicable to the property, including its size, shape, topography, location, and surroundings, the property cannot reasonably be developed in conformity with the provisions of this Chapter; and (Ord. No. 9374, §1, 4/10/00)
    - e. That the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
    - f. That the proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase congestion, or substantially diminish or impair property values within the neighborhood; and
    - g. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the *Land Use Code (LUC)* provisions which are in question.
  2. Powers not granted the Board of Adjustment (B/A). The B/A may not:
    - a. Delete or vary any performance criteria applicable to a Special Exception Land Use as required by the *Land Use Code (LUC)*, unless specifically allowed by the *LUC*, or as established as a condition by the decision-making body in granting the use.
    - b. Make any changes in the uses permitted in any zoning classification. (Ord. No. 9179, §1, 12/14/98)
    - c. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.
    - d. Grant a variance to any administrative requirement of the *Land Use Code (LUC)* or to any requirement which is not a specific development regulation or performance criteria required of a land use. (Ord. No. 8785, §1, 12/16/96)

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- e. Grant a variance to the performance criteria required of Educational Uses as provided in Sec. 3.5.3.7. (Ord. No. 9374, §1, 4/10/00)
  - C. *Appeals of City Zoning Map Interpretations.* The Board of Adjustment (B/A) hears and decides appeals of Zoning Administrator's interpretations of the official City Zoning Maps in determining exact locations of zone boundary lines as shown on the City Zoning Maps. Consideration shall be in accordance with procedures set forth in Sec. 5.4.4.5, Type V Appeal Procedure.
  - D. *Appeals of Lot Development Option (LDO) Decisions.* The Board of Adjustment (B/A) hears and decides appeals of Planning Director decisions on Lot Development Option (LDO) applications in accordance with procedures set forth in Sec. 5.4.4.5, Type V Appeal Procedure. In considering the appeal, the B/A shall apply the same findings required of the Planning Director. (Ord. No. 9179, §1, 12/14/98)
  - E. *Appeals of Project Design Option (PDO) Decisions.* The Board of Adjustment (B/A) hears and decides appeals of Planning Director decisions on Project Design Option (PDO) applications in accordance with procedures set forth in Sec. 5.4.4.5, Type V Appeal Procedure. In considering the appeal, the B/A shall apply the same findings required of the Planning Director. (Ord. No. 9179, §1, 12/14/98)
  - F. *Other Responsibilities.* The Board of Adjustment (B/A) shall perform such other functions as may be required by the *Land Use Code (LUC)*. (Ord. No. 9179, §1, 12/14/98)

**5.1.8 DEVELOPMENT REVIEW BOARD (DRB).** The Development Review Board (DRB) is established to review proposed buildings, structures, landscaping, architectural features, development plans, and site plans as set forth in the *Land Use Code (LUC)*.

**5.1.8.1 Composition.** The Development Review Board (DRB) consists of seven (7) members, of whom five (5) are regular members and two (2) are alternates, as provided below.

- A. *Appointment.* Any member of the Mayor and Council may make a recommendation for appointment of a Development Review Board (DRB) member. Such appointments are made by a majority vote of the Mayor and Council. The DRB members must be city residents. All members of the DRB serve without compensation. (Ord. No. 8961, §1, 10/6/97)
- B. *Qualifications.* Of the seven (7) members, there shall be at least one (1) registered architect, one (1) contractor, and two (2) registered landscape architects. No member of the Development Review Board (DRB) is to hold any city, county, or state elective office or be a permanent employee of the City while a member of the DRB. (Ord. No. 8961, §1, 10/6/97, as amended 11/3/97)
- C. *Terms.* The term of each member is four (4) years, beginning with the date of appointment. Members are eligible for reappointment but shall not serve more than eight (8) continuous years. After the eight (8) continuous years of service, a member becomes eligible for reappointment after a break in service of one (1) year. (Ord. No. 8961, §1, 10/6/97)
- D. *Vacancies.* An appointment to fill an unexpired term shall be considered a new appointment in accordance with Sec. 5.1.8.1.C. Any position on the Development Review Board (DRB) that is vacated shall be filled by appointment as described in Sec. 5.1.8.1.A. (Ord. No. 8961, §1, 10/6/97)
- E. *Removal.* A member of the Development Review Board (DRB) may be removed with or without cause by a majority vote of the Mayor and Council. A member who misses four (4) consecutive meetings for any reason or fails to attend for any reason at least forty (40) percent of the DRB meetings held in one (1) calendar year is automatically and immediately removed as a member of the DRB.

5.1.8.2 Administrative Functions. The Development Review Board's (DRB) administrative functions shall be accomplished as follows.

- A. *Election of Officers.* The Development Review Board (DRB) shall elect a Chair and Vice Chair from among its regular members. The terms of the Chair and Vice Chair are one (1) year which shall commence in February of each year. Should both the Chair and Vice Chair be absent from a meeting, an interim Chair shall be voted upon by those members attending.
- B. *Meetings.* The Development Review Board (DRB) shall hold meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public.
- C. *Quorum and Voting.* Three (3) regular members or alternates constitute a quorum. A concurring vote of a majority of the members present and voting is necessary to make a decision.
- D. *Records.* The Planning Department shall maintain public records of the Development Review Board's (DRB) actions, findings, and recommendations.
- E. *Rules of Procedure.* The Development Review Board (DRB) shall adopt rules of procedure necessary to carry out its functions. Copies of such rules shall be available to the public through the Planning Department.
- F. *Required Action.* Applications reviewed for the purpose of providing a recommendation to another board, committee, official, or the Mayor and Council for a decision shall be forwarded without a recommendation should the Development Review Board (DRB) fail to act within twenty-one (21) days of the date a plan is accepted for review by the DRB. Action by the DRB to continue deliberation to another meeting shall stay the twenty-one (21) day requirement.

5.1.8.3 Powers and Duties. The Development Review Board (DRB) performs the following duties.

- A. *Scenic Corridor Zone (SCZ), Development Review.* The Development Review Board (DRB) reviews development applications for projects located within a Scenic Corridor Zone (SCZ), when requested by the Development Services Department (DSD) Director or applicant, as provided in Sec. 2.8.2.11.A, and in accordance with procedures established in Chapter 23A, of the *Tucson Code*, Sec. 23A-42. In formulating its recommendation, the DRB shall utilize the same criteria, as provided in Sec. 2.8.2.11.B, required of the DSD Director in making the decision. (Ord. No. 9392, §1, 5/22/00)
- B. *Scenic Corridor Zone (SCZ), Variances.* The Development Review Board (DRB) reviews, for recommendation, all requests for variances from Scenic Corridor Zone (SCZ) provisions, as provided in Sec. 2.8.2.14. In formulating its recommendation, the DRB shall utilize the same findings required in Sec. 5.3.3 for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted. (Ord. No. 9392, §1, 5/22/00)
- C. *Lot Development Option (LDO), Appeals.* The Development Review Board (DRB) reviews, for recommendation, appeals of Planning Director decisions on Lot Development Option (LDO) applications in accordance with Sec. 5.4.4.5, Type V Appeal Procedure. In formulating its recommendation, the DRB shall utilize the same criteria, as provided in Sec. 5.3.4, required of the Planning Director in making the decision.
- D. *Project Design Option (PDO), Development Review.* The Development Review Board (DRB) reviews, for recommendation, requests to modify general provisions of the *Land Use Code (LUC)*, as provided in Sec. 5.3.5, and in accordance with Sec. 5.4.3.7, Type VII Administrative Procedure. In formulating its recommendation, the DRB shall utilize the same criteria, as provided in Sec. 5.3.5, required of the Planning Director in making the decision.

- E. *Environmental Resource Zone (ERZ) Mitigation Plan, Appeals.* The Development Review Board (DRB) reviews, for recommendation, appeals of Development Services Department (DSD) Director decisions on Environmental Resource Zone (ERZ) mitigation plans, as provided in Sec. 2.8.6.8.B, and in accordance with procedures set forth in Chapter 23A, of the *Tucson Code*, Sec. 23A-43. In formulating its recommendation, the DRB shall utilize the same criteria required of the DSD Director in making the decision. (Ord. No. 9392, §1, 5/22/00)
- F. *Environmental Resource Zone (ERZ), Variances.* The Development Review Board (DRB) reviews, for recommendation, all requests for variances from ERZ regulations, as provided in Sec. 2.8.6.8.A. In formulating its recommendation, the DRB shall utilize the same findings required in Sec. 5.3.3 for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.
- G. *Landscaping and Screening Regulations, Variances.* The Development Review Board (DRB) reviews, for recommendation, all requests for variances from Sec. 3.7.0, Landscaping and Screening Regulations, as provided in Sec. 3.7.7.5. In formulating its recommendation, the DRB shall utilize the same findings required in Sec. 5.3.3 for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.
- H. *Gateway Corridor Zone, Variances.* The Development Review Board (DRB) reviews, for recommendation, all requests for variances from Gateway Corridor Zone regulations, as provided in Sec. 2.8.4.5. In formulating its recommendation, the DRB shall utilize the same findings required in Sec. 5.3.3 for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.
- I. *Native Plant Preservation, Variances.* The Development Review Board (DRB) reviews, for recommendation, all requests for variances from Native Plant Preservation regulations, as provided in Sec. 3.8.8.3. In formulating its recommendation, the DRB shall utilize the same findings required in Sec. 5.3.3 for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.
- J. *Neighborhood Commercial (NC) Zone, Development Review.* The Development Review Board (DRB) reviews all proposed nonresidential development, including exterior remodeling, for approval of architectural and site design compatibility with the surrounding residential area, as provided in Sec. 2.5.2.6.D.
- K. *Office (O-1) Zone, Development Review.* The Development Review Board (DRB) reviews all new office development in the O-1 zone, including Medical Service - Outpatient, as provided in Sec. 3.5.4.11.G.
- L. *Communications Land Use, Development Review.* The Development Review Board (DRB) reviews, for recommendation when requested by the Planning Director, Communications land uses in all zones which require approval as a Special Exception Land Use through a Type I Administrative Procedure, Sec. 5.4.3.1, as provided in Sec. 3.5.4.20.D.
- M. *Communications Land Use, Development Review.* The Development Review Board (DRB) reviews, for recommendation, Communications land uses in all zones which require approval as a Special Exception Land Use through a Type IV Administrative Procedure, Sec. 5.4.3.4, as provided in Sec. 3.5.4.20.E.
- N. *Communications Land Use, Development Review.* The Development Review Board (DRB) reviews, for recommendation when requested by the Zoning Examiner, Communications land uses in all zones which require approval as a Special Exception Land Use through a Type V Administrative Procedure, Sec. 5.4.3.5, as provided in Sec. 3.5.4.20.F.

- O. *Communications Land Use, Development Review.* The Development Review Board (DRB) reviews, for recommendation when requested by the Mayor and Council, Communications land uses in all zones which require approval as a Special Exception Land Use through a Type III Legislative Procedure, Sec. 5.4.2.3, as provided in Sec. 3.5.4.20.G.
- P. *Home Occupation: Travelers' Accommodation, Lodging, Development Review.* The Development Review Board (DRB) reviews all Home Occupation: Travelers' Accommodation, Lodging, land uses in the various zones in which the use is permitted, as provided in Sec. 3.5.7.4.F.
- Q. *Historic Preservation Zone (HPZ), Appeals.* The Development Review Board (DRB) reviews, for recommendation, as provided in Sec. 5.4.4.6.C, Type VI Appeal Procedure, any appeal of a Planning Director decision which was made in compliance with the procedural requirements of a Type X Administrative Procedure, Sec. 5.4.3.10. The DRB recommendation shall be based on the purpose of the HPZ and the specific criteria for development listed in Sec. 2.8.8.6.
- R. *Other Responsibilities.* The Development Review Board (DRB) shall perform such other functions as may be required by the *Land Use Code (LUC)*.

(Ord. No. 9179, §1, 12/14/98)

- 5.1.9 TUCSON-PIMA COUNTY HISTORICAL COMMISSION.** The Tucson-Pima County Historical Commission is established to advise the Mayor and Council, the City Planning Director, the Board of Supervisors, and the applicable county officials on issues concerning historic sites, historic structures, and new construction and demolition within historic districts or Historic Landmarks within the community.
- 5.1.9.1 Establishment. The Tucson-Pima County Historical Commission is established and constituted as provided in Chapter 10A, Boards and Commissions, of the *Tucson Code*.
  - 5.1.9.2 Administrative Functions. The Tucson-Pima County Historical Commission's administrative functions are as provided in Chapter 10A, Boards and Commissions, of the *Tucson Code*.
  - 5.1.9.3 Powers and Duties within the *Land Use Code (LUC)*. In addition to the powers and duties provided in Chapter 10A, Boards and Commissions, of the *Tucson Code*, the Tucson-Pima County Historical Commission shall be responsible for the following.
    - A. *Establishment of a Historic District or Historic Landmark.* The Tucson-Pima County Historical Commission shall review all requests to establish a historic district or Historic Landmark in accordance with Sec. 2.8.8.9.
    - B. *Amendments to an Existing Historic District or Historic Landmark.* The Tucson-Pima County Historical Commission shall review any request to amend an existing historic district or Historic Landmark in accordance with Sec. 2.8.8.9.
    - C. *Development Review.* The Tucson-Pima County Historical Commission shall review any development proposal within a historic district for compliance with design and construction requirements and standards in accordance with Sec. 2.8.8.6. The responsibility for such review may be delegated to a Tucson-Pima County Historical Commission subcommittee.
    - D. *Demolition Review.* The Tucson-Pima County Historical Commission shall review all proposals to demolish any structure within a historic district or a Historic Landmark.

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- 5.1.10 HISTORIC DISTRICT ADVISORY BOARDS.** For each historic district proposed or established, a historic district advisory board (advisory board) is appointed to assist the Mayor and Council and the Planning Department in evaluating establishment of, or amendment to, a historic district and in evaluating proposed development within an adopted historic district.
- 5.1.10.1 Composition. Each historic district advisory board consists of at least six (6), but not more than fifteen (15), members. Members may be either voting or non-voting advisory members.
- A. *Appointment.* Members of each advisory board are appointed by the Mayor and Council.
  - B. *Qualifications.* For each advisory board, approximately one-third (1/3) of the voting members must be residents within the historic district; approximately one-third (1/3) of the voting members must be property owners within the historic district; and approximately one-third (1/3) of the voting members must have special qualifications in such areas as archaeology, architecture, architectural history, local history, historic preservation law, landscape architecture, planning, construction, or other related field. The application information for all prospective members must be accompanied by a statement of interest, including the category in which they would serve. The information for members having special qualifications shall also reference the individuals' educational and professional experience. The Planning Director, the Historic Program Administrator, and a member of the Tucson-Pima County Historical Commission shall review the information for applicants in the special qualifications category and make recommendations prior to the nomination being forwarded to the Mayor and Council for consideration. Members serve without compensation. (Reso. No. 17915, §1, 1/12/98)
  - C. *Terms.* The term of each member of an advisory board is for a maximum of four (4) years, expiring on December 31 of the fourth year. Terms may be staggered to assure continuity. Members are eligible for reappointment. (Reso. No. 17915, §1, 1/12/98)
  - D. *Removal.* A member of an advisory board may be removed by a two-thirds (2/3) vote of the Mayor and Council.
- 5.1.10.2 Administrative Functions. Each advisory board is responsible for the following administrative functions.
- A. *Election of Officers.* Each advisory board elects a Chair and Vice Chair from among its members. The terms of the Chair and Vice Chair are one (1) year.
  - B. *Meetings.* Each advisory board holds as many regular meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public.
  - C. *Quorum and Voting.* A majority of the voting members constitutes a quorum of an advisory board. The concurring vote of the majority of members present and voting is necessary to make any recommendation to the Planning Director or to the Mayor and Council. If a concurring vote cannot be attained within the specified time allotted by the review procedure, the matter will be forwarded without recommendation.
  - D. *Records.* Each advisory board will keep a public record of its actions, findings, and recommendations.
  - E. *Rules of Procedure.* Each advisory board may adopt rules of procedure necessary to carry out its functions. Copies of such rules will be filed with the City Clerk and made available to the public through the Planning Department.
  - F. *Training.* Advisory Boards shall schedule not less than one (1) meeting per year for the purposes of training related to their design review responsibilities. The training shall be coordinated with the City's Historic Program Administrator. (Reso. No. 17915, §2, 1/12/98)

5.1.10.3 Powers and Duties. Each advisory board performs the following duties.

- A. *Establishment of Historic District.* Upon receipt of a request to establish a historic district, the Mayor and Council establish a historic district advisory board for the proposed historic district to evaluate and make recommendations on the proposed establishment of the historic district in accordance with Sec. 2.8.8.9. As part of the review, the advisory board makes recommendations on the boundaries of the historic district and which sites or structures are to be designated Contributing Properties and Noncontributing Properties.
- B. *Historic District Amendments.* Each advisory board makes written recommendations to the Planning Director and to the Mayor and Council concerning amendments to the boundaries of its historic district and the addition or deletion of designated sites and structures in accordance with Sec. 2.8.8.9.
- C. *Historic Preservation.* Each advisory board reviews and makes written recommendations to the Planning Director on applications involving new construction, additions, alterations, and moving or demolition of existing structures located within its historic district for compliance with the purpose and intent of the historic district and all applicable provisions and criteria.
- D. *Permitted Uses.* The applicable advisory board shall review applications for resident artisan uses and make recommendations to the Planning Director.

**5.1.11 DEVELOPMENT SERVICES DEPARTMENT (DSD).** The Development Services Department (DSD), as established by the Mayor and Council, shall assist in the administration of the *Land Use Code (LUC)* and Development Standards.

5.1.11.1 Functions and Duties. The Zoning Administrator is responsible for the enforcement of the *Land Use Code (LUC)* in accordance with Sec. 5.1.4.4.B; however, the Development Services Department (DSD) shall be responsible for the nondiscretionary administration of the *LUC* on all new development within the boundaries of the city as follows.

- A. *Implementation of the Land Use Code (LUC).* The Development Services Department (DSD) shall be responsible for the implementation of applicable provisions of the *Land Use Code (LUC)* on all projects being developed under the existing zoning of the property.
- B. *Subdivisions, Minor Subdivisions, and Land Splits.* The Development Services Department (DSD) shall be responsible for the review of all development proposals for compliance with the subdivision, minor subdivision, and land split regulations in the *Land Use Code (LUC)* and applicable Development Standards.
- C. *Development Standards.* The Development Services Department (DSD) shall be responsible for the review of all development proposals for compliance with Development Standard requirements.

5.1.11.2 Development Services Department (DSD) Director. The Development Services Department (DSD) Director is the chief executive officer of DSD and shall be responsible for administering the functions and duties of DSD regarding the *Land Use Code (LUC)* as follows.

- A. *Plats.* The Development Services Department (DSD) Director is responsible for the coordination of reviews of all plats in accordance with Chapter 23A, of the *Tucson Code*, Sec. 23A-45. The DSD Director, on behalf of the Mayor and Council, makes decisions on approving tentative plats, as provided by the *Land Use Code (LUC)*, Sec 4.1.6 and Sec. 5.1.2.9. (Ord. No. 9517, §4, 2/12/01)

- B. *Implementation of the Land Use Code (LUC).* The Development Services Department (DSD) Director is responsible for the review of all proposed projects that are being developed under the existing zoning of the property for conformance with provisions of the *Land Use Code (LUC)*. As part of this responsibility, the DSD Director shall assure that: (1) no land is used or occupied; (2) no existing use is expanded or changed; (3) no site improvement, modification, or construction is started; (4) no new structures are constructed; (5) no existing structure is reconstructed, changed, or otherwise altered; and (6) no land is divided into multiple parcels until conformance with provisions of the *LUC* has been certified through a zoning review process and shall assure that development occurs as approved prior to final occupancy. The responsibility includes the authority to suspend construction of a project when the project has not been approved for zoning or if it is not in keeping with the plans approved for conformance with zoning regulations.
- C. *Development Standards.* The Development Services Department (DSD) Director is responsible for assuring that no land is used or occupied; no site improvement, modification, or construction is started; no existing use or structure is expanded, reconstructed, changed, or otherwise altered; and no land is divided into multiple parcels until conformance with provisions of the Development Standards has been certified through a zoning review process and for assuring that development occurs as approved prior to final occupancy.
- D. *Scenic Corridor Zone (SCZ).* The Development Services Department (DSD) Director evaluates and makes decisions on Scenic Corridor Zone (SCZ) development applications, as provided in Sec. 2.8.2 and in Chapter 23A, of the *Tucson Code*, Sec. 23A-42.
- E. *Environmental Resource Zone (ERZ).* The Development Services Department (DSD) Director evaluates and makes decisions on Environmental Resource Zone (ERZ) mitigation plans, as provided in Sec. 2.8.6.8 and in Chapter 23A, of the *Tucson Code*, Sec. 23A-43.
- F. *Land Splits.* The Development Services Department (DSD) Director is responsible for assuring conformance with land split regulations, as provided in Article IV, Division 3, and in Chapter 23A, of the *Tucson Code*, Sec. 23A-47.
- G. *Other Duties.* The Development Services Department (DSD) Director performs such other functions as may be required of DSD in assisting the Zoning Administrator in implementing provisions of the *Land Use Code (LUC)*.

(Ord. No. 9392, §1, 5/22/00)



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- 5.3.7.5 **Forfeiture.** If the temporary use or structure is not removed or the site does not achieve compliance, the bond required by Sec. 5.3.7.2 is forfeited.
- 5.3.7.6 **Time Limit.** Approval for a temporary use or structure may be granted for one (1) year, with an additional one (1) year period granted for good cause, unless otherwise stipulated in the temporary use or structure qualification criteria in Sec. 5.3.7.1. (Ord. No. 8786, §1, 12/16/96)
- 5.3.8 DEVELOPMENT PLAN.** A development plan is a drawing of a project site that provides detailed information as to how a proposed project will be developed in compliance with City ordinances and regulations. When a development plan is required to be processed in accordance with this Section, preparation, application, review, and approval shall be as follows.
- 5.3.8.1 **Review Procedure.** Preparation, application, review, and approval of development plans shall be in accordance with procedures established in Chapter 23A, of the *Tucson Code*, Sec. 23A-48. (Ord. No. 9392, §1, 5/22/00)
- 5.3.8.2 **Expiration Dates.** Expiration dates for development plans are as provided below. For the purposes of Sec. 5.3.8, "construction or building permits" are those permits issued for the construction of the project, such as, but not limited to, infrastructure improvements, building foundations, buildings, paving of vehicular use areas, or similar types of improvements related to the construction and implementation of the project. Permits for: a) clearing, grubbing, and grading of a site; b) construction of a section of sidewalk; c) installation of screening; d) paving of an access driveway but not the parking associated with the use; or e) any similar type of work are not considered "construction or building permits" for purposes of this Section, unless specifically stated otherwise by this Section or the process requiring the applicability of this Section.
- A. *Maximum Review Period.* Except in the case of a Protected Development Right Plan, Sec. 5.3.10, an applicant has one (1) year from the date of application to obtain approval of a development plan that complies with zoning and other development requirements in effect at the time of application, unless an ordinance adopted by Mayor and Council during this period states otherwise. A development plan application that has been in review for a period of one (1) year which has not been approved is considered denied. To continue the review of a development plan for the property, a new development plan which complies with regulations in effect at that time must be submitted. The new submittal initiates a new one (1) year review period. (Ord. No. 9635, §2, 12/10/01)
- B. *Development Plan Approval Period.* Except in the case of a Protected Development Right Plan, Sec. 5.3.10, an approved development plan remains valid for a period of one (1) year from the date of approval. (Ord. No. 9392, §1, 5/22/00; Ord. No. 9635, §2, 12/10/01)
1. If, at the end of one (1) year, building permits have not been obtained, a new development plan application, in compliance with regulations in effect at the time of its resubmittal, is required.
  2. If the project is being developed in phases and permits have not been issued for all phases within the one (1) year period, developers of subsequent phases have one (1) additional year to obtain permits. If, at the end of the two (2) year period, permits have not been issued, review and approval of a revised development plan for the undeveloped portion, in compliance with all regulations and/or ordinances in effect at the time of resubmittal, are required prior to the issuance of building permits.
  3. If construction permits are issued within the required time period, but the construction of the project has not commenced and the permit and development plan approval periods expire, the approval of the development plan is considered expired. Review and approval of a revised development plan, in compliance with regulations and ordinances in effect at the time of resubmittal, are required prior to the issuance of building permits.

4. If construction permits are applied for but not issued within the time period required by this Section, the time period is extended an additional three (3) months to allow for completion of the review and for the issuance of permits.
5. If the approval period has expired pursuant to Sec. 5.3.8.2.B.1, .B.2, .B.3, or .B.4 of this Section, the resubmittal to obtain approval of a new development plan initiates a new review period in accordance with Sec. 5.3.8.2.A.

5.3.8.3 Issuance of Building Permits. Review and approval for the issuance of permits for development plans shall be as follows.

- A. *Approved Development Plan.* The approved development plan shall be filed with the official building records for the site and shall be the basis for the issuance of building permits. Building permit applications shall include a copy of the approved development plan bearing the appropriate approval signature. (Ord. No. 9392, §1, 5/22/00)
- B. *Change From, or Expiration Of, an Approved Development Plan.* Building permit applications involving construction which changes from the approved development plan or if the approval has expired shall be accompanied by a copy of an amended development plan bearing the Planning Department's approval.
  1. The Planning Director may approve minor changes from the approved plan without processing the plan through the entire review process. Determination as to whether the change is minor or major is made by the Planning Director on a case-by-case basis. Changes in site design include, but are not limited to, building height, density, land use, parking, and traffic circulation.
  2. Major changes from the approved plan require review and recommendation of approval of the new plan by the review agencies. If the development plan is required as a special requirement imposed by the Mayor and Council, a major deviation shall require approval by the Mayor and Council prior to review of the revised plan.

(Ord. No. 9392, §1, 5/22/00)

**5.3.9 SPECIAL EXCEPTION LAND USES.** Special Exception Land Uses are uses which are not allowed by right within a zone but are permitted if approved through a particular review process. Within each zone, there is a section or subsection entitled Special Exception Land Uses which lists those land uses that are eligible for consideration within that zone under one (1) of the Special Exception Land Use review procedures.

5.3.9.1 Purpose. Special Exception Land Uses are often desirable but may have detrimental effects on adjacent properties or neighborhoods or on the surrounding community if not properly designed and controlled. A special review of these land uses is necessary to ensure that avoidable problems or hazards are not created and that such uses are consistent with the intent of this Chapter and the zones under which they are permitted.

5.3.9.2 Review Procedures. Special Exception Land Uses are reviewed under one (1) of three (3) different procedures. The applicable procedure is provided in the individual zone for the land use. The procedures are as follows. Application requirements shall be established by the Planning Director and shall include, but not be limited to, information on the subject property and surrounding uses, proposed use, traffic considerations, land use impact analysis, and any other information as appropriate to evaluate the requests.

- A. *Review by the Planning Director.* This is an administrative procedure requiring review and approval by the Planning Director through a Type IV Administrative Procedure, Sec. 5.4.3.4. Approval shall be granted if the Planning Director finds the proposal in compliance with the findings as listed in Sec. 5.3.9.3. The approval may be subject to conditions as provided in Sec. 5.3.9.4.

- B. *Approval by the Zoning Examiner.* This is an administrative procedure requiring a public hearing and approval by the Zoning Examiner in accordance with a Type V Administrative Procedure, Sec. 5.4.3.5. The Zoning Examiner may approve the request if all the findings as listed in Sec. 5.3.9.3 are complied with. If approved, the approval may be subject to conditions as provided in Sec. 5.3.9.4.
- C. *Review by the Mayor and Council.* This is a legislative procedure requiring a public hearing by the Zoning Examiner and approval by the Mayor and Council in accordance with a Type III Legislative Procedure, Sec. 5.4.2.3.

5.3.9.3 Findings. The following findings are considered by the Planning Director and Zoning Examiner when evaluating a request in accordance with Sec. 5.3.9.2.A and Sec. 5.3.9.2.B. The use: (Ord. No. 9374, §1, 4/10/00)

- A. Meets the standards expressly applied by all adopted codes and regulations for that type of land use or for the Land Use Class applicable to the proposed use.
- B. Does not adversely affect adjacent land uses or the surrounding neighborhood or that such adverse effects can be substantially mitigated through the use of additional conditions as provided in Sec. 5.3.9.4.
- C. Provides for adequate and efficient vehicular and pedestrian access and circulation and vehicular parking.
- D. Can be adequately and efficiently served by public facilities and services, such as water, stormwater drainage, fire and police protection, and solid and liquid waste disposal and/or collection as may be required by the City or the Pima County Health Department.
- E. Complies with the *General Plan* and any applicable subregional, area, or neighborhood plan. (Ord. No. 9374, §1, 4/10/00; Ord. No. 9517, §4, 2/12/01)

5.3.9.4 Conditions of Approval. In approving an application, the Planning Director or Zoning Examiner may impose such reasonable and appropriate conditions and safeguards as may be necessary to ensure compliance with the criteria for approval. Such conditions and safeguards may also be imposed to reduce or minimize any potentially injurious effects on adjacent properties; the character of the neighborhood; or the health, safety, or general welfare of the community. Such conditions may include, but not be limited to:

- A. Setbacks for structures or activities greater than the minimum required by the applicable zoning district.
- B. Structural or vegetative screening greater than that required by the landscaping and screening regulations of this Chapter to buffer the surrounding land uses from the proposed use.
- C. Limitations on the height, size, or illumination of signs more restrictive than the applicable requirements of the Tucson Sign Code.
- D. Limitations on the conduct of the proposed use, such as, but not limited to, hours of operation, or use of loudspeakers or external lighting, as necessary to protect adjacent land uses.
- E. Dedication of necessary right-of-way for streets, alleys, drainageways, and utilities.

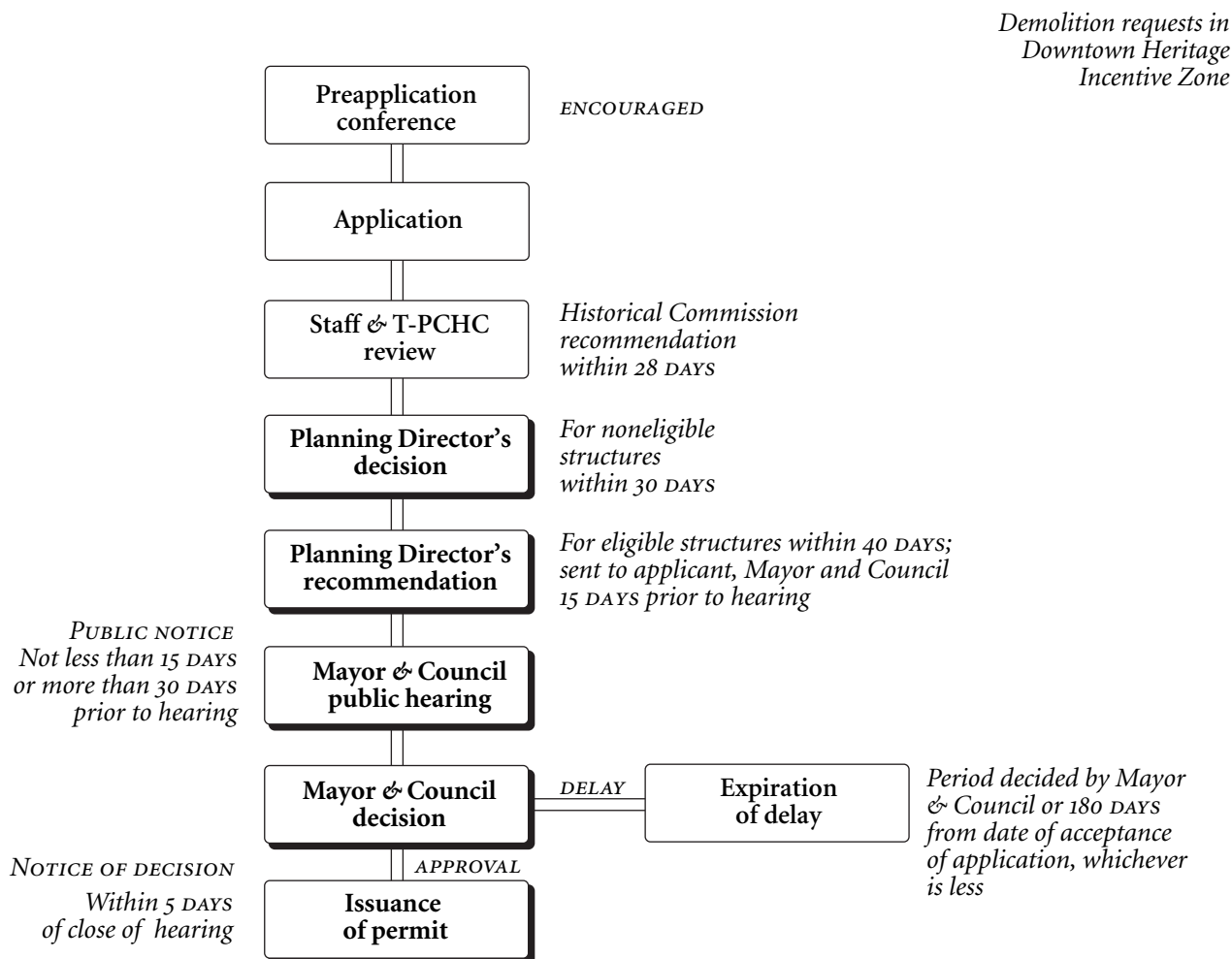
5.3.9.5 Mayor and Council Decision. The findings of the Zoning Examiner and any proposed conditions shall be forwarded to the Mayor and Council for their consideration. The decision by the Mayor and Council shall take into consideration whether or not the proposal satisfies the findings in Sec. 5.3.9.3. The Mayor and Council may either approve the application, approve the application with conditions, or deny the application. (Ord. No. 9374, §1, 4/10/00)

- 5.3.10 PROTECTED DEVELOPMENT RIGHT.** A protected development right is a right granted to undertake and complete the development and use of property as shown on the Protected Development Right Plan (see Sec. 6.2.16) without compliance with changes in zoning regulations and development standards adopted during the period of the Protected Development Right, except as provided by Arizona Revised Statutes (ARS), Sec. 9-1204. In the event of a conflict between the provisions of this *Land Use Code (LUC)* and ARS, Sec. 9-1201 through 9-1205 inclusive, as they may be amended, the statutory provisions shall govern.
- 5.3.10.1 Grant of Protected Development Right. A protected development right shall be granted upon approval by the Mayor and Council of a plan identified at the time it is submitted as a Protected Development Right Plan.
- 5.3.10.2 Effective Date of Protected Development Right. A protected development right shall be deemed established with respect to a property on the effective date of Mayor and Council approval of the Protected Development Right Plan.
- 5.3.10.3 Duration of Protected Development Right. The duration of the protected development right shall be three (3) years for a non-phased development and five (5) years for a phased development, with a single two (2) year extension permitted at the discretion of the Mayor and Council in either event, as provided in Arizona Revised Statutes (ARS), Sec. 9-1203.
- 5.3.10.4 Modification of Development Plan Expiration Dates. Notwithstanding Sec. 5.3.8.2, a development plan that has been designated a Protected Development Right Plan shall expire upon termination of the protected development right.

(Ord. No. 9635, §2, 12/10/01; Ord. No. 9750, §2, 8/5/02)

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3. *Zoning Examiner's Recommendation.* The Zoning Examiner may close the public hearing or continue the public hearing to a specified date, time, and place provided the continuance is not for more than thirty (30) days. Within five (5) days of the close of a hearing, the Zoning Examiner shall issue a summary of findings, together with a recommendation, to the applicant, Planning Director, and any other party requesting a copy. (Ord. No. 9374, §1, 4/10/00)
  4. *Reconsideration.* Reconsideration of the Zoning Examiner's recommendation shall occur in accordance with Sec. 5.4.5.12.
  5. *Reopening of the Public Hearing.* The Zoning Examiner may, at his/her discretion, reopen the public hearing to obtain additional testimony and information in accordance with Sec. 5.4.5.13.
  6. *Zoning Examiner's Recommendation.* The Zoning Examiner shall issue a Recommendation in accordance with Sec. 5.4.5.6 upon the expiration of the fourteen (14) days available for reconsideration. The Recommendation shall be distributed in accordance with the Notice of Decision, Sec. 5.4.5.10, and transmitted to the Mayor and Council for consideration and decision.
  7. *Request for Mayor and Council Public Hearing.* A person aggrieved or any member of the public may request a new public hearing before the Mayor and Council in accordance with Sec. 5.4.5.14. (Ord. No. 9374, §1, 4/10/00)
- H. *Preparation of an Ordinance.* On rezoning applications, an ordinance is prepared for consideration by the Mayor and Council, together with the Zoning Examiner's Recommendation. Special Exception Land Use requests do not require an ordinance.
- I. *Mayor and Council Consideration.* The Mayor and Council shall consider the Zoning Examiner's Recommendation in a public meeting, unless one (1) of the following situations applies which requires that a public hearing be scheduled: (1) the applicant requests it; (2) there is a request for a new public hearing in accordance with Sec. 5.4.5.14; or (3) at the Mayor and Council's discretion. (Ord. No. 9374, §1, 4/10/00)
1. *Public Meeting.* Mayor and Council public meetings are held in accordance with Sec. 5.4.5.8.A. Notice of the public meeting shall be provided to the applicant and any party requesting notice.
  2. *Public Hearing.* If a public hearing is determined necessary, the hearing is held in accordance with Sec. 5.4.5.8.B. Public notice of a public hearing shall be by the following methods not less than fifteen (15) days, nor more than thirty (30) days, prior to the hearing: Published Notice in accordance with Sec. 5.4.5.7.C and Mailed Notice in accordance with Sec. 5.4.5.7.A.1 to Expanded Area A as provided in Sec. 5.4.5.7.A.2.c and to all parties of record.
- J. *Mayor and Council Decision.* The Mayor and Council make a Legislative Decision in accordance with Sec. 5.4.5.9.B.
1. *Rezoning Applications.* A decision to grant a rezoning request is in the form of an ordinance. The ordinance may include a time period within which the applicant must satisfy all conditions of approval. The ordinance shall become effective in accordance with Sec. 5.4.5.16. The Legislative Decision is subject to referendum pursuant to Chapter XX of the City Charter. (Ord. No. 9374, §1, 4/10/00)
  2. *Special Exception Land Use Application.* A decision to approve a Special Exception Land Use request does not require an ordinance but may include conditions of approval and a time period within which the applicant must satisfy such conditions.

3. *Notice of Decision.* A Notice of Decision is provided by the City Clerk in accordance with Sec. 5.4.5.10.
4. *Compliance with Conditions.* An approval granted or an ordinance adopted subject to compliance with conditions requires certification of compliance through development plan review procedures established in Chapter 23A, of the *Tucson Code*, Sec. 23A-48, unless otherwise stipulated. (Ord. No. 9392, §1, 5/22/00)
- K. *Reconsideration.* The Mayor and Council may reconsider a decision made on an application in accordance with Sec. 5.4.5.15. If the Mayor and Council's decision is not reconsidered within the specified period of time and the decision was to deny, the rezoning case shall be closed administratively. If, after reconsideration, the decision is to reaffirm a denial, the case shall be closed administratively immediately after the decision.
- L. *City Zoning Map Change.* On rezoning cases where a rezoning ordinance has been adopted, the City Zoning Maps are amended after the effective date of the rezoning, not the effective date of the ordinance. The rezoning effective date is that date on which compliance with all conditions of rezoning has been met. (Ord. No. 8582, §1, 9/25/95; Ord. No. 9374, §1, 4/10/00)
- M. *Change in Conditions of Approval.* A request to amend conditions of approval requires Mayor and Council consideration in accordance with Sec. 5.4.5.19.
- N. *Expiration of Time Period.* The expiration of a time period shall be applied in accordance with Sec. 5.4.5.17.
- O. *Extension of Time.* Application for, and consideration of, an extension of a time period to complete conditions of approval shall be in accordance with Sec. 5.4.5.18. (Ord. No. 9374, §1, 4/10/00)
- P. *Suspension or Withdrawal of Application.* The processing of an application may be suspended or the application withdrawn in accordance with Sec. 5.4.5.20.
- Q. *Completion.* A procedure shall be considered complete in accordance with Sec. 5.4.5.21.



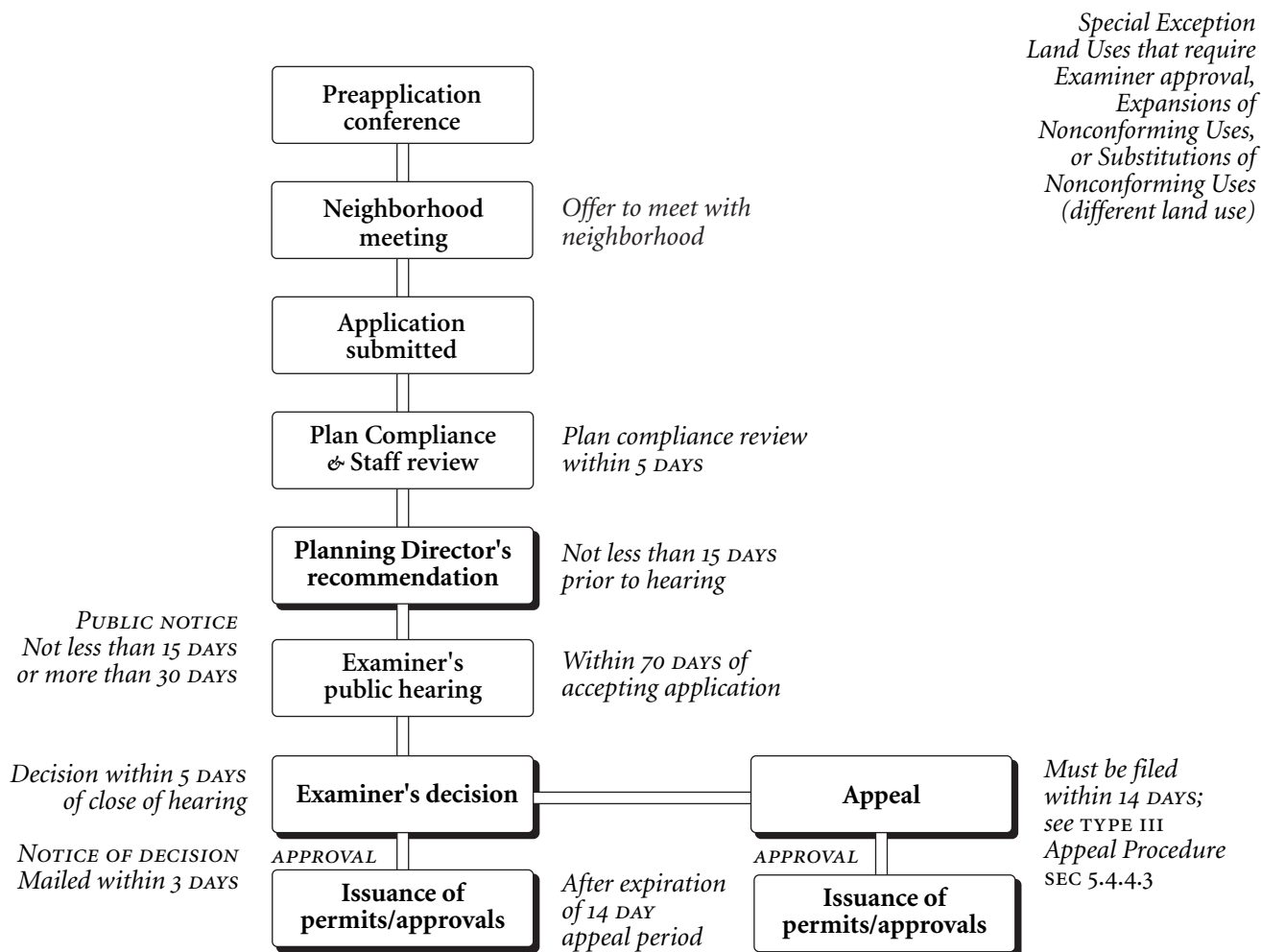
SEC 5.4.2.6 TYPE VI Legislative Procedure

- 5.4.2.7 Type VII Legislative Procedure. (The review procedure is located in Chapter 23A, Development Compliance Reviews, Sec. 23A-45(2) of the *Tucson Code*.) (Ord. No. 9392, §1, 5/22/00)
- 5.4.2.8 Type VIII Legislative Procedure. This procedure is used for review of applications for the establishment of, or amendment to, Historic Preservation Zone (HPZ) zoning districts. The criteria used to make this decision are as indicated in Sec. 2.8.8.10. (See *Illustration 5.4.2.8*.)

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- A. *Preliminary Assessment.* A preliminary assessment of the proposed historic district or Historic Landmark shall be provided to the Planning Director for review and recommendation to the Mayor and Council. The preliminary assessment should include the boundaries, a summary of the resources in the proposed historic district, evidence that a proposed district has historic significance, and a list of proposed advisory board members.
- B. *Proposed Historic District or Historic Landmark.*
1. An area may be proposed for historic district designation or amendment by any of the following.
    - a. The Mayor and Council.
    - b. The property owners of fifty-one (51) percent or more of the land area of the proposed historic district. (For calculation only, one owner per property.)
    - c. Sixty-five (65) percent or more of the property owners within the proposed historic district. (For calculation only, one owner per property.)
  2. A property may be proposed for designation as a Historic Landmark, Contributing Property, or Noncontributing Property by any of the following.
    - a. The Mayor and Council.
    - b. The owner of the proposed Historic Landmark, Contributing Property, or Noncontributing Property if it is a single property or any of the owners if more than one property.
    - c. The Tucson-Pima County Historical Commission.
- C. *Initiation.* The request to establish or amend a historic district or Historic Landmark is forwarded to the Tucson-Pima County Historical Commission for review and recommendation to the Mayor and Council. The Mayor and Council make a decision to initiate the establishment or amendment of a historic district or Historic Landmark. An amendment to the designation of properties within an established historic district does not require initiation by the Mayor and Council.
1. *Public Meeting.* Requests to initiate the consideration of establishing or amending a historic district or Historic Landmark will be considered by the Mayor and Council in a public meeting held in accordance with Sec. 5.4.5.8.A.
  2. *Decision.* The Mayor and Council make the decision on whether or not to initiate the process to consider the establishment of, or amendment to, a historic district or Historic Landmark. As part of the decision to initiate, the Mayor and Council shall:
    - a. Determine the proposed boundaries of the historic district or Historic Landmark.
    - b. Appoint a historic district advisory board for the proposed historic district to assist in the evaluation. Appointment, terms, and qualifications of the advisory board shall be in accordance with Sec. 5.1.10.
  3. *Notice of Decision.* A Notice of Decision is provided by the City Clerk in accordance with Sec. 5.4.5.10.
  4. *Expiration of Initiation.* The initiation by the Mayor and Council of the establishment of, or amendment to, a historic district or Historic Landmark shall expire five (5) years from the date the Mayor and Council make the decision to initiate.



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- D. *Plan Compliance.* In addition to the application requirements in Sec. 5.4.3.5.C, the application is reviewed for compliance with the *General Plan*, as implemented by specific plans and redevelopment plans, such as subregional, area, and neighborhood plans, in accordance with Sec. 5.4.5.4. (Ord. No. 9517, §4, 2/12/01)
- E. *Review of Application.* Staff and Agency Review shall be conducted in accordance with Sec. 5.4.5.5.A and .B.
- F. *Planning Director's Recommendation.* The Planning Director shall prepare a Recommendation in accordance with Sec. 5.4.5.6 and forward it to the applicant and the Zoning Examiner not less than fifteen (15) days prior to the scheduled public hearing. Should the Recommendation not be available within the required period of time, the Planning Director shall issue a report containing all factual information that has been obtained on the request, in lieu of the full Recommendation, and shall provide staff's analysis and recommendation prior to, or at, the hearing.
- G. *Zoning Examiner's Public Hearing.* The public hearing shall be held before the Zoning Examiner within seventy (70) days of acceptance of the application. Public hearings are held in accordance with Sec. 5.4.5.8.B and the Zoning Examiner's Rules and Procedures.
1. *Public Notice.* Public notice is provided by the following methods not less than fifteen (15) days, nor more than thirty (30) days, prior to the hearing: Posted Notice in accordance with Sec. 5.4.5.7.B, Published Notice in accordance with Sec. 5.4.5.7.C, and Mailed Notice in accordance with Sec. 5.4.5.7.A.1 to Expanded Area A as provided in Sec. 5.4.5.7.A.2.c, unless a greater notice is required for a Special Exception Land Use. Such notice areas are listed in Sec. 5.4.5.7.A.2.
  2. *Conduct of the Examiner.* The conduct of the Zoning Examiner shall be in accordance with Sec. 5.4.5.11.
- H. *Examiner's Decision.* The Zoning Examiner may close the public hearing or continue the public hearing to a specified date, time, and place provided the continuance is not for more than thirty (30) days. Within five (5) days of the close of a hearing, the Zoning Examiner shall make a decision to approve, approve with conditions, or deny the application.
1. *Notice of Decision.* A Notice of Decision shall be issued within three (3) days of the date of decision in accordance with Sec. 5.4.5.10.
  2. *Issuance of Permits/Approvals.* No permits or development approvals for the proposed use shall be granted until the fourteen (14) day appeal period has expired.
- I. *Appeal.* An appeal of the Zoning Examiner's decision may be filed with the Planning Department by a party of record within fourteen (14) days of the date of decision. The appeal shall be considered in accordance with Sec. 5.4.4.3, Type III Appeal Procedure. The filing of an appeal stays all proceedings. (Ord. No. 8808, §1, 1/27/97)

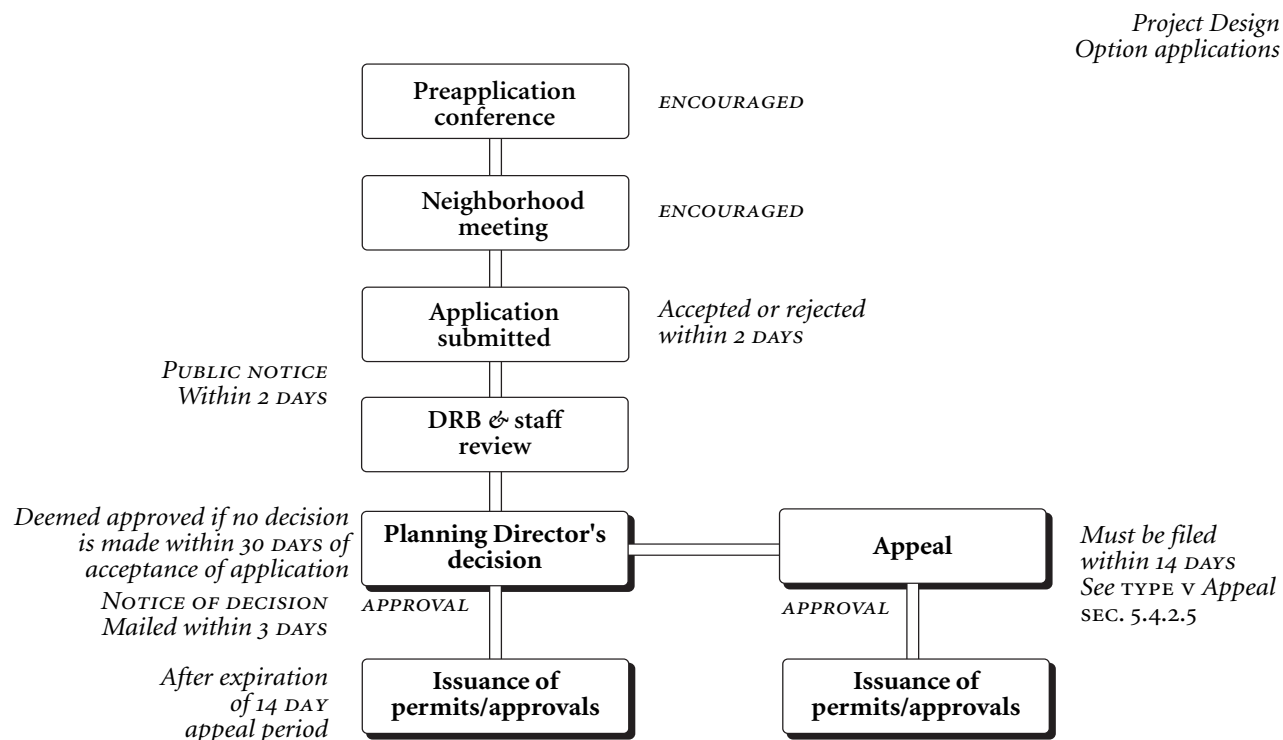


## SEC 5.4.3.5 TYPE V Administrative Procedure

- 5.4.3.6 Type VI Administrative Procedure. (The review procedures are located in Chapter 23A, Development Compliance Reviews, Sec. 23A-45(1) and Sec. 23A-48(3) of the *Tucson Code*.) (Ord. No. 9392, §1, 5/22/00)
- 5.4.3.7 Type VII Administrative Procedure. Applications filed under this procedure require review and approval by the Planning Director. This procedure is used for applications reviewed under the Project Design Option (PDO) provisions of the *Land Use Code (LUC)*. (See *Illustration 5.4.3.7*.)

A. *Preapplication Conference.* A preapplication conference in accordance with Sec. 5.4.5.1 is encouraged.

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- B. *Neighborhood Meeting.* Prior to submittal of an application, the applicant is encouraged to meet with the adjacent property owners to explain the proposed project and the need for the modification of a *Land Use Code (LUC)* requirement.
- C. *Application.* Submittals of applications shall be in accordance with Sec. 5.4.5.3 except that applications shall be accepted or rejected within two (2) days. Application requirements shall be established by the Planning Director and shall include, but not be limited to, property information, a site plan, and other information applicable to the type of request.
- D. *Public Notice.* Notice is provided within four (4) days of acceptance of the application by Mailed Notice in accordance with Sec. 5.4.5.7.A.1 to the Limited Area as provided in Sec. 5.4.5.7.A.2.a. (Ord. No. 9138, §1, 10/5/98)
- E. *Review.* The application is reviewed by staff and the Development Review Board (DRB). Staff Review is conducted in accordance with Sec. 5.4.5.5.A.
- F. *Planning Director's Decision.* Upon receipt of the Development Review Board's (DRB) recommendation, the Planning Director makes an Administrative Decision in accordance with Sec. 5.4.5.9.A within thirty (30) days of the date of acceptance of the application.
1. *Failure to Make a Decision.* Should the Planning Director fail to issue a decision within the required period of time, the application shall be deemed approved.
  2. *Notice of Decision.* A Notice of Decision shall be provided in accordance with Sec. 5.4.5.10 and to all persons noticed of the application within three (3) days of the date of decision.
- G. *Issuance of Permits/Approvals.* No permits or development approvals which rely on this decision shall be issued until the fourteen (14) day appeal period has expired.
- H. *Appeal.* The Planning Director's decision or an approval due to failure to issue a decision may be appealed by a party of record within fourteen (14) days of the date of decision or the end of the review period, whichever is applicable. Appeals shall be processed in accordance with Sec. 5.4.4.5, Type V Appeal Procedure. The filing of an appeal stays all proceedings.



## SEC 5.4.3.7 TYPE VII Administrative Procedure

- 5.4.3.8 Type VIII Administrative Procedure. (The review procedure is located in Chapter 23A, Development Compliance Reviews, Sec. 23A-42(2) of the *Tucson Code*.) (Ord. No. 9392, §1, 5/22/00)
- 5.4.3.9 Type IX Administrative Procedure. (The review procedure is located in Chapter 23A, Development Compliance Reviews, Sec. 23A-43(1) of the *Tucson Code*.) (Ord. No. 9392, §1, 5/22/00)
- 5.4.3.10 Type X Administrative Procedure. Applications filed under this procedure require a decision by the Planning Director. This procedure is used for applications submitted for Historic Preservation Zone (HPZ) review under the provisions of Sec. 2.8.8.5.B, for resident artisan uses under the provisions of Sec. 2.8.8.4.B, and for demolition applications for Noncontributing or nonhistoric Contributing Properties per Sec. 2.8.8.7.B.3. (See *Illustration 5.4.3.10*.)
- A. *Preapplication Conference.* Prior to application for Historic Preservation Zone (HPZ) review, the applicant is encouraged to attend a preapplication conference. A representative from the appropriate advisory board shall be invited to the preapplication meeting. It is also recommended that the applicant submit for a preliminary review of the proposed development by the applicable historic district advisory board at one of its regular meetings. Applicants are advised to refer to the Secretary of the Interior's Standards for Rehabilitation when tax certification for rehabilitation is being contemplated before submitting an application for review.

Party. As applicable to a public review process, means the following:

- A. Applicant.
- B. All owners of record of property within the property owners notification area specified by the applicable development process and any tenants residing on such property.
- C. The City.
- D. Any person, organization, group, or governmental entity which demonstrates to the hearing body a substantial interest in the matter before it or receives a particular and direct impact which is distinguishable from the effects or impacts upon the general public.

Peak. A point of maximum elevation.

Perimeter Yard. A setback area to separate buildings from adjacent property or streets.

Permeable Surface. A paving material that permits water penetration to a soil depth of at least eighteen (18) inches. A permeable surface may consist of nonporous materials poured or laid in sections not exceeding one (1) square foot in area and collectively comprising less than two-thirds (2/3) of the total surface area.

Person. Any individual as well as any firm, corporation, partnership, company, or any other form of multiple organization for the carrying on of business.

Phased Development. For purposes of consideration and approval of Protected Development Right Plans, a Phased Development is a master planned development which (a) consists of at least forty (40) acres depicted on a single master subdivision plat for a residential development or (b) consists of at least twenty (20) acres depicted on a single master subdivision plat or development plan for a nonresidential development or (c) is the subject of a newly adopted Planned Area Development (PAD) zone or (d) the Mayor and Council have identified as a phased development for purposes of protected development rights. (Ord. No. 9750, §3, 8/5/02)

Physical and Behavioral Health Service. See Sec. 6.3.8.5, Residential Care Services.

Physically Disabled. A person, as defined in Arizona Revised Statutes (ARS), Sec. 28-881, or as it may be amended, having a physical impairment that substantially limits that person's ability to move from place to place.

PL. Same as Property Line.

Plant Community. A biological grouping of vegetation frequently found under natural conditions due to their common soils, moisture, climate, and orientation requirements. (Ord. No. 8845, §2, 3/24/97)

Plant Inventory. A numerical listing and assessment of the plants on a site that includes plant genus and species, size, health, age, form or structure, and locational situation, such as soils and topography. (Ord. No. 8845, §2, 3/24/97)

Plat. A graphic representation of a subdivision, drawn, processed, and recorded in accordance with the subdivision provisions of this Chapter. The term "plat" includes tentative plat, final plat, and recorded plat.

Postsecondary Institution. See Sec. 6.3.4.6, Educational Use.

Preschool. Same as Child Care, Sec. 6.2.3. (Ord. No. 9374, §1, 4/10/00)

Preservation-in-Place. No disturbance of one (1) or more plants; site planning and design that retains existing plant genus and species in their current location, grade, and configuration and allows for their future health and growth. (Ord. No. 8845, §2, 3/24/97)

Prevailing Setback. As used in Sec. 2.8.8, Historic Preservation Zone (HPZ), the most frequently occurring distances between structures and street and interior property lines in a development zone.

Prison. See Sec. 6.3.4.4, Correctional Use.

Private Road. A street not dedicated to the public.

Project. A development, consisting of one (1) or more contiguous lots, planned and constructed to function as a single entity, utilizing common or shared facilities, structures, parking, and vehicular and pedestrian access.

Project Site. In general application, the area of the project. As applicable in Sec. 2.8.5, Airport Environs Zone (AEZ), the land area designated for development and managed as a single entity, exclusive of any abutting public right-of-way. A site may be any number of contiguous lots, separated by no more than six hundred (600) feet, or it may be one (1) lot. The project site utilizes common facilities such as parking, structures, and vehicular and pedestrian access. Noncontiguous lots will, at a minimum, be connected by pedestrian facilities.

Property Line. The lot line which defines the exterior limits of a lot.

Proportion. As used in Sec. 2.8.8, Historic Preservation Zone (HPZ), the relationship between the width and height of a building's front facade, windows, and doors.

Protected Development Right Plan. A plan or subdivision plat which, at a minimum, describes with a reasonable degree of certainty (a) the proposed uses of the site, (b) the boundaries of the site, (c) significant topographical and other natural features affecting development of the site, (d) the number of dwelling units, and (e) the location of all existing and proposed utilities and a provision for other infrastructure on the site, including water, sewers, roads, and pedestrian walkways. A plan or subdivision plat for other than a Phased Development may be considered a Protected Development Right Plan only if, in addition to the foregoing requirements, it describes with a reasonable degree of certainty the square footage, height, and general location of the proposed buildings, structures, and other improvements and provides the final site development approval needed for issuance of a building permit. (Ord. No. 9635, §2, 12/10/01; Ord. No. 9750, §3, 8/5/02)

Protected Native Plants. Plant genus and species of a minimum size with special status per the Protected Native Plant List, Sec. 3.8.5. (Ord. No. 8845, §2, 3/24/97)

Protected Peak. A peak identified by the Mayor and Council to be visually significant and important to the image and economy of the city. These peaks are shown on the Hillside Development Zone (HDZ) Maps.

Protected Peak Setback Area. The three hundred (300) foot distance, measured horizontally in all directions from a protected peak.

Protected Ridge. A ridge identified by the Mayor and Council to be visually significant and important to the image and economy of the city. These ridges are shown on the Hillside Development Zone (HDZ) Maps.

Protected Ridge Setback Area. The three hundred (300) foot distance, measured horizontally in all directions from the line of a protected ridge.

Provider. As applied in the wireless communication regulations, see Sec. 6.2.23, Wireless Communication Provider. (Ord. No. 8813, §1, 3/3/97)

Public Accommodation. All public places of entertainment, amusement, or recreation; all public places at which food or beverages are sold for consumption on the premises; all public places which are conducted for the lodging of transients or for the benefit, use, or accommodation of those seeking health or recreation; and all establishments which cater or offer their services, facilities, or goods to, or solicit patronage from, the members of the general public. Any residential house or residence in which less than five (5) rooms are rented is not a place of public accommodation.

Public Area. The area within a publicly-owned property, such as, but not limited to, street or alley right-of-way, or the area within a public accommodations land use set aside for use by the general public, such as, but not limited to, the dining, waiting, or rest room areas in a restaurant.

Public Assembly. Any structure or use of public accommodation, which is intended, designed, or used in whole or in part for the occupancy of fifty (50) or more persons, at any one (1) time, of the general public, for such purposes as, but not limited to, deliberation, worship, entertainment, education, amusement, drinking, or dining. For the purposes of this definition, the term general public does not include those persons who are employed full or part time at the project site; those persons who, on a temporary basis, provide or deliver goods or services to the project site; or any other persons engaged in similar activities at the project site.

Public Preserve. As applicable in Sec. 2.8.6, Environmental Resource Zone (ERZ), Saguaro National Park (Rincon Mountain District and Tucson Mountain District); Tucson Mountain Park; and Coronado National Forest.

PY. Same as Perimeter Yard.

**6.2.17      DEFINITIONS - Q.**

**6.2.18      DEFINITIONS - R.**

Radioactive Material. Any material (solid, liquid, or gas) which emits radiation spontaneously. For the purpose of this definition, radiation means ionizing radiation, i.e., gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles.

Recorded Plat. A fully executed final plat bearing all required signatures and certificates of approval which is recorded in the Pima County Recorder's Office.

Recreational Vehicle (R.V.). A unit designed to provide travelers' accommodations built into, as an integral part of, or attached to a self-propelled motor vehicle chassis or drawn by a motor vehicle. The unit contains permanently installed independent support systems which provide at least four (4) of the following facilities: cooking, refrigerator or ice box, self-contained toilet, heating, air conditioning, a portable water supply system including a faucet and sink, a separate 110-125 volt electrical power supply, or an LP gas supply.

Recreational Vehicle (R.V.) Park. A parcel of land under single ownership, where one (1) or more spaces are rented, leased, or held out for rent or lease to persons for occupancy of recreational vehicles whether or not a fee is charged for the use of the space.

Recreational Vehicle (R.V.) Space. An area within an R.V. park for the placement of an R.V. unit, in addition to any exclusive use area adjacent to the unit set aside for the occupants of the R.V., such as a patio or vehicular space.

Regional Mall. A shopping center containing more than five-hundred thousand (500,000) square feet of gross floor area, providing a mix of uses, such as restaurants, cinemas, offices, amusement facilities, educational facilities, auto-related services, and retail. The facility is designed with buildings in a linear pattern on two (2) sides of an open air or fully enclosed pedestrian walk. Stores along the pedestrian walk have their main public entrances opening onto the walk.

Rehabilitation Service. See Sec. 6.3.8.5, Residential Care Services.

Rental Unit. One (1) or more rooms in a Travelers' Accommodation, Lodging, facility designed for occupancy by one (1) or more persons for compensation.

Replat. Same as Resubdivision.

Residential Care Services. See Sec. 6.3.8.5.

Resource Corridor. As applicable in Sec. 2.8.6, Environmental Resource Zone (ERZ), An area running approximately parallel to the sides and banks of designated washes defined and characterized by the location of critical riparian habitat associated with the wash, plus an area of one hundred fifty (150) feet from the edge of the critical riparian habitat on each side of the wash.

Restaurant. A Food Service use. A restaurant by any other name, such as, but not limited to, coffee shop, cafeteria, fast food restaurant, or diner, shall be regulated as a restaurant. To differentiate between a restaurant which serves alcoholic beverages and a bar which serves food, a restaurant meets the following criteria.

- A. Provides meals suitable to hours of operation (i.e., breakfast in the morning, lunch in the afternoon, etc.).
- B. The full kitchen remains open and meals are available to patrons during all hours of operation with the exception of the last hour which is used for cleanup.
- C. Management cannot ask for age verification (carding) for admittance to the establishment.
- D. Management cannot restrict patronage by age or sex (i.e., Ladies Night, Over 21, etc.) except for limited special services or events within certain limited areas of the establishment.
- E. A cover charge cannot be required for general admittance, except for special services or events offered within certain areas of the establishment.
- F. Management must maintain a minimum amount of table seating at all times and not have tables removed to create a dance floor or set aside major sections of the establishment for special events.

(Ord. No. 8666, §1, 3/25/96)

Resubdivision. The redefining of lots, streets, or both within a recorded subdivision plat through the recordation of a new subdivision plat.

Retail Establishment, Large. A retail establishment (General Merchandise Sales), a retail grocery establishment (Food and Beverage Sales), or an establishment with a combination of both uses, comprised of more than one hundred thousand (100,000) square feet of floor area, which includes gross floor area, outdoor storage areas, and any outside area which provides associated services to the public, such as, but not limited to, outdoor merchandise display, snack bars, etc. The floor area does not include motor vehicle parking or loading areas.

For the purposes of determining the applicability of the one hundred thousand (100,000) square foot floor area maximum, the aggregate square footage of all adjacent stores, which share checkstands, management, a controlling ownership interest, and storage areas, shall be considered one establishment, e.g., a plant nursery associated with a general merchandise store, such as a home improvement store.

(Ord. No. 9293, §1, 9/27/99)



Revegetation. Establishment of plants at a density similar to what exists under similar topographic and soil conditions.

Rezone. To change the zoning classification of land.

Rhythm. As used in Sec. 2.8.8, Historic Preservation Zone (HPZ), the ordered recurrent alternation of solids to voids in the facade and streetscape.

Ridge (when used in relation to natural terrain). A relatively narrow elevation which is prominent on account of the steep angle at which it rises; an elongated crest or series of crests, with or without peaks, significantly higher than the adjoining ground.

Ridge Line. A ground line located at the highest elevation of the ridge running parallel to the long axis of the ridge.

Right-of-Way. An area reserved for a public or private use, such as, but not limited to, street or alley rights-of-way and utility easements.

Riparian. Land adjacent to washes and drainageways which is occupied by biotic communities differing in species composition and/or density from surrounding upland due to an increase in moisture and different soil conditions.

Roadway. The paved portion of a street, excluding curbs. On an unpaved street, the roadway is the area set aside for motor vehicle traffic.

ROW. Same as Right-of-Way.

RV. Same as Recreational Vehicle.

R/W. Same as Right-of-Way.

#### 6.2.19 DEFINITIONS - S.

Salvageable/Transplantable Plant. A plant rated as Viable which also has a good likelihood of surviving and adapting to a new location if dug up and replanted. (Ord. No. 8845, §2, 3/24/97)

Scenic Route. Any route so designated in the *Major Streets and Routes (MS&R) Plan*.

Screen. An opaque barrier designed and constructed to conceal areas used for storage, refuse, mechanical equipment, parking, or delivery service loading bays from street and public view or to buffer adjacent land uses.

SCZ. Same as Scenic Corridor Zone. See Sec. 2.8.2.

Search Area. As applied to wireless communication regulations, the limited area within a service area where an antenna can be placed that will provide satisfactory communications service within that service area. (Ord. No. 8813, §1, 3/3/97)

Secondary School. See Sec. 6.3.4.6, Educational Use.

Seriously Mentally Ill Person. One as defined in Arizona Revised Statutes (ARS), Sec. 36-550. The determination is to be made by an individual qualified in the State of Arizona to make such evaluation.

Service Area. As applied to wireless communication regulations, the geographical area where satisfactory communications service can be provided by the placement of a specific antenna. (Ord. No. 8813, §1, 3/3/97)

Service Bay. A specific location on a site reserved for servicing a motor vehicle. Such location can be within an enclosed building or can be a designated area located outside a building.

Setback. The distance from a set point.

Shelter Care. See Sec. 6.3.8.5, Residential Care Services.

Shopping Center. A mixed use development composed of an integrated group of establishments (stores), planned, constructed, and managed as a unit, utilizing common or shared facilities, such as buildings, parking, and vehicular and pedestrian access, where at least fifty (50) percent of the use is retail. The individual establishments may be owned by a single entity or by separate entities. (Ord. No. 9293, §1, 9/27/99)

Shopping Center, Neighborhood. A shopping center which occupies up to ten (10) acres and has up to one hundred thousand (100,000) square feet of gross leasable area.

Shopping Center, Regional. Same as Regional Mall.

Single-Family Dwelling. A building containing one (1) dwelling unit.

Single-Family Dwelling, Attached. A dwelling unit attached on a horizontal plane to one (1) or more dwelling units by structural elements common to the attached units. Each dwelling unit is located on its own individual lot or separated by a line denoting a separate ownership of each unit. The structural elements include common wall construction, roof, or other similar improvement. Elements such as trellises, beams, and patio walls are not included.

Single-Family Dwelling, Detached. A dwelling unit which is not attached to any other dwelling unit by any structural elements, surrounded by open space and located on its own separate lot.

Site. The land area consisting of a lot or contiguous lots, not including dedicated public property, designated for development as a single entity and exclusive of any abutting public right-of-way.

Site Coverage. Same as Lot Coverage.

Site Plan. For the purposes of the *Land Use Code (LUC)*, same as Development Plan.

Site Utilization. As used in Sec. 2.8.8, Historic Preservation Zone (HPZ), the spacing between the sides of buildings.

Slope Plan. A plan which demonstrates the feasibility of complying with the site grading requirements and site cut and fill requirements of Sec. 2.8.1, Hillside Development Zone (HDZ), and further depicts the location, extent, and treatment of all cut and fill slopes.

Solar Access. Access to sunlight to protect active or passive solar energy systems from shadows blocking exposure to the sun during hours of high insolation, from 9:20 a.m. to 3:20 p.m. local time.

Solar Energy System. Includes: (1) A design using natural and architectural features to cool or heat a structure or (2) a mechanical assembly which may include a solar collector, storage facility, and any other components needed to cool or heat a structure.

Sorority. See Fraternity.

Soup Kitchen. A Food Service use which provides free meals for consumption on site.

Specific Plan. A detailed policy plan or regulation which implements the *General Plan* or any of the elements of that *Plan*. Specific plans include subregional, area, and neighborhood plans; the *Major Streets and Routes (MS&R) Plan*; the *Land Use Code (LUC)*; and any other similar plan. For more detailed information on specific plans, refer to Sec. 5.2.3. (Ord. No. 9374, §1, 4/10/00; Ord. No. 9517, §5, 2/12/01)

Specified Anatomical Areas. Is:

- A. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breasts below a point immediately above the top of the areola; or
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities. Is:

- A. Human genitals in a state of sexual stimulation or arousal; or
- B. Acts of human masturbation, sexual intercourse, or sodomy; or
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.

STAC. Same as Stormwater Technical Advisory Committee.

Stacking Space. An area designed to accommodate vehicles waiting in line to receive a service.

State. Same as the State of Arizona.

Stormwater Technical Advisory Committee (STAC). A Mayor and Council appointed committee established for the purpose of advising the City Engineer and the Mayor and Council on stormwater issues.

Street. Any permanent public or private right-of-way, other than an alley or parking area access lane, set aside to accommodate vehicular travel lanes, parking lanes, bike lanes, pedestrian facilities, utility areas, and other such design features, whether designated as a street, drive, highway, thoroughfare, road, boulevard, avenue, lane, or place.

Street Landscape Border. An area along the street frontage of a site containing landscape materials, screening, and open space, the purpose of which is to enhance the visual appearance of the streetscape.

Street Lot Line. The property line bounding a street.

Street Perimeter Line. Same as Street Lot Line.

Street Perimeter Yard. The perimeter yard between a street lot line and a building.

Structure. A physical element constructed or erected with a fixed location on the ground or attached to another physical element having a fixed location at, below, or above grade. Structures include such elements as, but are not limited to, buildings, paved areas, walls, fences, posts, and patios.

Structure Height. The vertical dimension of a structure measured from a specified point on the ground. For information on applying a height requirement, refer to Sec. 3.2.7.

**Subdivider.** A person, firm, corporation, partnership, association, syndicate, trust, or other legal entity that files application and initiates proceedings for the subdivision of land in accordance with the provisions of this Chapter and any other local applicable ordinance or state statute, except that an individual serving as agent for such legal entity is not a subdivider.

**Subdivision.** The same as "subdivision" as defined in Sec. 4.1.2 of this Chapter.

**Supervision Facility.** See Sec. 6.3.4.4, Correctional Use.

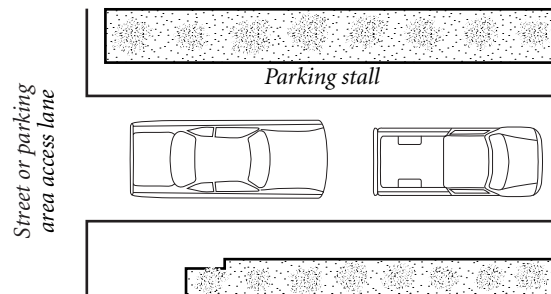
**Swap Meet.** A place of commercial activity popularly known as swap meet, flea market, or park-and-swap which is open to the general public. A swap meet is composed of semienclosed or outdoor stalls, stands, or spaces, at least fifty (50) percent of which do not occupy the same allotted area on an uninterrupted, continuous, daily basis for the purpose of display and sale, exchange, or barter of merchandise, exclusive of occasional craft fairs and benefit sales held on public property.

**Swap Meet, Indoor.** A swap meet which is located in a completely enclosed building.

## 6.2.20 DEFINITIONS - T.

**Tagging.** The tagging of plants on-site to denote their identification number and their disposition: whether they will be preserved in place, salvaged and transplanted on-site, and/or salvaged and transplanted off-site. (Ord. No. 8845, §2, 3/24/97)

**Tandem Parking.** Two (2) motor vehicle parking spaces placed one behind the other with direct access from a street, alley, parking area access lane (PAAL), or other travel lane to only one (1) of the spaces. (*See Illustration 6.2.20.*)



**6.2.20 Tandem Parking**

**Tavern.** Same as Bar.

**TDOT.** Same as Tucson Department of Transportation.

**Tentative Plat.** A graphic representation of a proposed subdivision, including supporting data, designed and prepared in accordance with the subdivision provisions of this Chapter, any other local applicable regulation, and state statute. A tentative plat is the same as a preliminary plat as defined in state statute.

**Tower.** A mast, pole, monopole, guyed or freestanding framework, or other vertical element which acts as an antenna or to which an antenna is affixed or attached. (Ord. No. 8813, §1, 3/3/97)

**Travel Lane.** The area within a paved roadway reserved for moving vehicular traffic.

Tucson General Plan. Same as *General Plan*. (Ord. No. 9517, §5, 2/12/01)

TUP. Same as Temporary Use Permit. See Sec. 5.3.7.

Turf. An area of grass ground cover grown together in a thick mat.

**6.2.21 DEFINITIONS - U.**

Ultralight Airpark. An airport used by the general public or an ultralight flying club for ultralight aircraft operation.

Undisturbed Natural Desert. An area of land maintained in its original condition with natural desert cover, native topography, and native vegetation intact.

Upland Vegetation. Refers to vegetation which grows outside of the floodplain, typically on low desert slopes. Upland vegetation on south-facing slopes is typically the Foothill Palo Verde, Saguaro, and Ocotillo; on north facing slopes, it is typically the Foothill Palo Verde and Whitethorn Acacia. Some plants, such as Mesquites, are able to grow as upland and riparian vegetation. (Ord. No. 8845, §2, 3/24/97)

Utilities. Services such as gas, electric, water, telephone, and cable television.

**6.2.22 DEFINITIONS - V.**

Vehicular Use Area. Any area of a site or structure used for the parking, storage, or standing of motor vehicles. The vehicular use area includes access drives, maneuvering areas, refuse collection locations, loading spaces, and any landscaping and screening.

Viable Plant. A plant on the Protected Native Plant List that is in good physical condition with high or medium rating for health, age, and form. (Ord. No. 8845, §2, 3/24/97)

Visible from the Scenic Route. Not blocked from view by buildings, structures, or natural features from the Scenic Routes. An object is considered visible whenever it can be seen, not blocked by an intervening structure or terrain, from four (4) feet above the natural grade at the future right-of-way line along the parcel.

**6.2.23 DEFINITIONS - W.**

Waiting Area. That portion of a public accommodations use allocated to clientele waiting to request or receive products or services offered by the use.

Wireless Communication. See Sec. 6.2.3, Communication, Wireless. (Ord. No. 8813, §1, 3/3/97)

Wireless Communications Provider. The entity which provides the wireless communication service. (Ord. No. 8813, §1, 3/3/97)

Wireless Communication Tower. See Sec. 6.2.20, Tower. (Ord. No. 8813, §1, 3/3/97)

**6.2.24 DEFINITIONS - X.**

Xeriscape. A landscaping program designed to save water using the seven (7) principles listed below. For examples, refer to Development Standard No. 2-06.0.

A. Water conserving design.

Xeriscape. (Con't)

- B. Low water use/drought-tolerant plants.
- C. Reduction in turf.
- D. Water harvesting techniques.
- E. Appropriate irrigation methods.
- F. Soil improvements and use of mulches.
- G. Proper maintenance practices.

**6.2.25 DEFINITIONS - Y.**

**6.2.26 DEFINITIONS - Z.**

Zoning Maps. Same as City Zoning Maps.

ZV. Same as Zoning Violation.

ZVC. Same as Zoning Violation Citation.

## APPENDIX 1

### Checklist of Up-to-Date Pages

The following listing is included in this Code as a guide for the user to determine whether the Code volume properly reflects the latest print of each page.

In the first column, all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. When a page has been reprinted or printed as part of the supplement service, this column reflects the Supplement Number which is printed on the bottom of the page.

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